

**ADDRESSING MATCH FIXING AND CORRUPTION IN COLLEGIATE
ATHLETICS IN LIGHT OF *NCAA v. MURPHY***

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I. INTRODUCTION

On the morning of October 1, 1919, the city of Cincinnati was filled with a spirited energy.¹ Though the forecast had been dismal, the sun rose in a clear blue sky, and the temperature would climb to 83°F by mid-afternoon.² Though stores were open, nobody was shopping.³ The only thing that anybody cared about that day was the World Series.⁴

A World Series game had never been played in Cincinnati before.⁵ Not only that, but at the beginning of the season no one would have thought that the Reds had a chance to make it all the way to this point, which led to Manager Pat

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¹ Eliot Asinof, *EIGHT MEN OUT: THE BLACK SOX AND THE 1919 WORLD SERIES* 3 (1963).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

Moran being dubbed “Miracle Man” for winning the pennant.⁶ The excitement surrounding these games was spread across the country, and even across the globe.⁷ Over 100,000 miles worth of wire would be used to bring the game to 10,000 scoreboards in 250 cities, including Winnipeg, Canada, and Havana, Cuba.⁸

For all their excitement, the people of Cincinnati also harbored a growing sense of nervousness and pessimism.⁹ This was due to the might of their opponent, the Chicago White Sox.¹⁰ The White Sox had a long and storied history of success, and in the minds of Reds fans who had never seen them play before, they were frightening.¹¹ The White Sox employed some of the best baseball players of the era, including pitcher Eddie Cicotte, infielders “Buck” Weaver, “Swede” Risberg, Eddie Collins, “Chick” Gandil, and outfielders “Happy” Felsch, “Shano” Collins, and “Shoeless” Joe Jackson.¹² There was, however, one overriding factor that would eventually dictate the outcome—eight members of the Chicago White Sox had agreed to fix the World Series.¹³

While the 1919 “Black Sox” scandal may be the event that sticks out in the minds of modern baseball fans as the genesis of American match fixing, it was not a unique event.¹⁴ From the very beginning of the sport, baseball and betting had been linked together.¹⁵ During its pre-Civil War years, baseball was played in private clubs and was watched by upper-class gentlemen who viewed the games as a great vehicle for betting.¹⁶ In fact, the terms used to describe games in the early years of the sport were gambling terms—runs were “aces,” and at-bats were called “hands.”¹⁷

A baseball betting culture that was conducive to match fixing continued through the 20th century and was, in part, the genesis of the Black Sox scandal.¹⁸ During the 1918 season, the war negatively impacted attendance figures.¹⁹ Due to their tough economic situation, the team owners agreed amongst themselves to slash the salaries of their players.²⁰ Charles Comiskey, the White Sox owner, was especially agreeable—he had the best collection of baseball talent on his team yet paid them as if they were among the worst.²¹ By mid-July, it became clear that the

⁶ ASINOF, *supra* note 1.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 5.

¹¹ ASINOF, *supra* note 1, at 5.

¹² *Id.*

¹³ *Id.*

¹⁴ Kat Eschner, *The 1919 Black Sox Baseball Scandal Was Just One of Many*, SMITHSONIAN.COM (Sept. 1, 2017), <https://www.smithsonianmag.com/smart-ews/1919black-sox-baseball-scandal-wasnt-first-180964673/>.

¹⁵ ASINOF, *supra* note 1, at 10.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *See id.* at 15.

¹⁹ *Id.* at 15.

²⁰ Asinof, *supra* note 1, at 15.

²¹ *Id.*

owners' predictions that the war would impact attendance figures had missed the mark—fans were showing up to the games in droves.²² This set the stage for a dramatic showdown between the players and management.²³ Players realized that their salaries were especially low in the face of higher attendance numbers, and they realized that it was time to take their stand.²⁴ After a clubhouse meeting, it was agreed by the White Sox players that their manager, William "Kid" Gleason, would take their case to Comiskey.²⁵ Gleason was viewed as a sympathetic character by the players because he had had a salary dispute with Comiskey the year before and had refused to accept terms.²⁶ However, Comiskey refused to even discuss player salaries with Gleason.²⁷ This refusal, and the tensions that led up to it, set the stage for the most infamous example of match fixing in American sporting history.²⁸

The problem of match fixing was not solved after the 1919 scandal, and it has not been confined solely to the baseball field.²⁹ During the 2009-10 NCAA Basketball season, Brandon Johnson, one of the University of San Diego's (USD) best players, was involved in a federal conspiracy ring that included the sale of drugs as well as attempts to compromise games.³⁰ After pleading guilty to his involvement in the case, he served a six-month prison sentence, along with a USD assistant coach who was sentenced to a year in prison for his involvement in the conspiracy.³¹ This was not an isolated incident in college basketball—"there have been seven game-fixing scandals in college basketball over the past 62 years: City College of New York (1951); Boston College (1979); Tulane (1985); Arizona State (1994); Northwestern (1995); Toledo (2008); and San Diego (2010)."³²

Similar to the lead-up to what became the Black Sox scandal, there exists a sense of unrest amongst college athletics as the discussion surrounding paying college athletes gains more and more airtime.³³ As evidenced by a recent FBI crackdown on major college basketball schools, unpaid college athletes represent a vulnerability in upholding the integrity of the sport.³⁴ In September 2017, the United States Department of Justice announced that it had arrested and indicted ten

²² *Id.* at 15-16.

²³ *Id.* at 16.

²⁴ *Id.*

²⁵ ASINOF, *supra* note 1, at 16.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *See id.*

²⁹ Matt Norlander, *NCAA: No More Punishment for San Diego in Game-Fixing Case*, CBS SPORTS (Aug. 14, 2013), <https://www.cbssports.com/college-basketball/news/ncaa-no-more-punishment-for-san-diego-in-game-fixing-case/>.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *See* Aaron Moody, *Here's a Master Guide to the College Basketball Corruption Scandal and FBI Investigation*, THE NEWS AND OBSERVER (Oct. 4, 2018), <https://www.newsobserver.com/sports/article208880939.html>.

people, four of whom were assistant coaches at major college basketball schools.³⁵ The schemes alleged by the Justice Department generally took one of two forms: in one, coaches with influence would funnel payments to high school players to ensure that they signed with an Adidas-sponsored school, and in turn, sign with the company upon entering a professional league;³⁶ in the other, coaches were paid to influence players to sign with a particular sports agent upon turning professional.³⁷ Because collegiate athletes are not paid, there is a much higher risk of match fixing occurring in the NCAA than there is in professional leagues.³⁸

The Black Sox scandal happened at a time when professional baseball players made about the same as an average American, and felt that this was not nearly enough for the value they brought to their owners and teams.³⁹ Thus, they were susceptible to match-fixers who were able to promise them lump sums of cash that doubled or tripled what they were able to make in a single year.⁴⁰ Today, however, professional athletes are associated with very high salaries compared to the average American citizen.⁴¹ For example, in 2016, the average NBA player made \$6.2 million, the average MLB player made \$4.4 million, and the average NFL player made \$2.1 million.⁴² The large salaries of professional athletes makes it less likely that they will jeopardize their career by involving themselves in a match fixing scheme.⁴³ It does not make sense for an NBA player making \$7 million a year to risk giving up his multi-million dollar earning potential to throw a game.⁴⁴

On the other hand, the equation comes out differently in the case of college athletes, who are not allowed to make any sort of money while playing at the collegiate level.⁴⁵ According to Marc Edelman, a professor of law at Baruch College's Zicklin School of Business:

If you look at the same issue with respect to a college athlete who is not likely to play on the professional level, the revenue they are getting from

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Jen Booton, *Why the NCAA Need A Robust Betting Framework*, SPORTTECHIE (Apr. 23, 2018), <https://www.sporttechie.com/robust-sports-betting-framework-benefit-ncaa-needs/>.

³⁹ ASINOF, *supra* note 1, at 21.

⁴⁰ *Id.*

⁴¹ *Visualizing the Yearly Salary of Professional Athletes, NBA Players Average \$5+ Million a Year*, THE HUFFINGTON POST (DEC. 6, 2017), https://www.huffingtonpost.com/visualnewscom/visualizing-the-yearly-sa_b_4184716.html.

⁴² Kurt Badenhausen, *The Average Player Salary and Highest-Paid In NBA, MLB, NHL, NFL and MLS*, FORBES (Dec. 15, 2016), <https://www.forbes.com/sites/kurtbadenhausen/2016/12/15/average-player-salaries-in-major-american-sports-leagues/#586caf611050>.

⁴³ *See* Booton, *supra* note 38.

⁴⁴ *Id.*

⁴⁵ *Id.*

playing college sports is zero. When you balance that zero up against what they could make if they threw a game on purpose, there becomes a much greater interest of a collegiate athlete throwing a game on purpose.⁴⁶ The high salaries of professional athletes provide a sort of built-in buffer against match fixing, eliminating the financial incentive for any player to throw a game when he is already making large sums of money legitimately.⁴⁷ However, in the case of collegiate athletics, this buffer is removed, meaning that the NCAA is at a higher risk of match-fixing than professional leagues.⁴⁸

This Note will outline the history and development of sports betting systems in other countries, particularly the UK and India, in order to demonstrate the need for the United States to address the issue of match-fixing head-on through specifically targeted legislation, encouraging cooperation between sports governing bodies, and establishing regulations for the companies that will be taking the bets.

A. PASPA and Murphy v. NCAA

America has had a long and complicated history in defining its relationship with legal sports betting.⁴⁹ In the early 18th century, collecting revenue from gambling was an effective way for colonial governments to raise money.⁵⁰ By the 19th century, the country was full of legal gambling houses and Americans were obsessed with betting on horse racing.⁵¹ However, members of the Progressive Movement decided in the early 20th century that gambling was one of many social ills that needed to be eradicated, and succeeded in cutting off nearly all access to legal forms of gambling across the United States.⁵²

Gradually, after hitting a low point with the Black Sox scandal, Americans' negative attitudes towards gambling began to soften.⁵³ Additionally, after the Great Depression, states' needs for revenue rose and some began to authorize certain forms of gambling within their borders, with Nevada becoming the first to legalize sports wagering in 1949.⁵⁴ Despite the growth of the legal sports gambling operations in Nevada, organized crime remained a problem.⁵⁵ As a result of the continuing strength and defiance of these criminal organizations, there was a palpable fear throughout the 1960s that the integrity of sports would once again be

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ See Booton, *supra* note 38.

⁴⁹ Justin Fielkow et al., *Tackling PASPA: The Past, Present, and Future of Sports Gambling in America*, 66 DEPAUL U. L. REV. 23, 25 (2016).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at 26.

⁵³ *Id.*

⁵⁴ Fielkow et al., *supra* note 49, at 27.

⁵⁵ *Id.*

corrupted.⁵⁶ Riding this wave of fear, Congress passed a series of laws designed to loosen organized crime's grip on the illegal sports gambling marketplace, including the Wire Act, the Travel Act, the Interstate Transportation of Wagering Paraphernalia Act, the Sports Bribery Act, and the Illegal Gambling and Business Act.⁵⁷ However, despite these efforts from the government, illegal sports betting persisted throughout the country.⁵⁸ A 1976 report by the Commission on the Review of the National Policy Towards Gambling found that over two-thirds of the population indulged in gambling and that four-fifths of the population approved of gambling.⁵⁹ Perhaps because of the realization that attempts to stop illicit sports gambling activities would be futile, the U.S. Department of Justice put "a low priority on [the] enforcement of the [anti-gambling] laws in place."⁶⁰ "As a result of this lack of enforcement," the illegal gambling market in the United States exploded, growing from around \$8 billion wagered in 1983 to around \$50 billion wagered in 1989.⁶¹

Though, to this point, Congress had generally given states the authority "to regulate sports gambling within their borders, [t]hat all changed on February 22, 1991."⁶² With full backing from the major professional sports leagues, senators from Utah, Arizona, Pennsylvania, and New Jersey introduced the Professional and Amateur Sports Protection Act (PASPA).⁶³ One of the primary arguments in favor of passing PASPA was to preserve the integrity of sports.⁶⁴ This argument was best articulated by former NFL Commissioner Paul Tagliabue during his Congressional testimony:⁶⁵

First, sports gambling threatens the character of team sports. Our games embody our very finest traditions and values . . . With legalized sports gambling, our games instead will come to represent the fast buck, the quick fix, the desire to get something for nothing . . .

Second, sports gambling threatens the integrity of, and public confidence in, team sports. Sports lotteries inevitably foster a climate of suspicion about controversial plays and intensify

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 28.

⁵⁹ Fielkow et al., *supra* note 49, at 28.

⁶⁰ *Id.* (citing Bart Barnes, *Friendly Wagers to Big Bookmaking*, WASHINGTON POST (Jan. 18, 1982), <https://www.washingtonpost.com/archive/sports/1982/01/18/friendly-wagers-to-big-bookmaking/73abae5a-3ce8-47f0-9740-b1bb83328ec1>).

⁶¹ *Id.* at 29.

⁶² *Id.*

⁶³ *Id.* at 29-30.

⁶⁴ Fielkow et al., *supra* note 49, at 30.

⁶⁵ *Id.*

cynicism with respect to player performances, coaching decisions, officiating calls and game results.⁶⁶

With that, PASPA was enacted, “a relatively simple statute” that essentially prevented any state from authorizing any sort of gambling scheme based on a sporting event ““in which amateur or professional athletes participate[d].””⁶⁷

In the period of time following the enactment of PASPA, however, states became upset with the practical application of the law.⁶⁸ Some states, seeing that the law had failed to achieve its desired result and also sensing an opportunity to generate revenue, began to attack the law.⁶⁹ The first of such official attacks came from Delaware, when Governor Jack Markell signed a bill into law that would allow racetrack casinos to accept bets on any amateur or professional sporting event.⁷⁰ However, before the casinos could accept any bets, the major professional sports leagues filed a complaint, and the Third Circuit eventually held that Delaware’s scheme violated PASPA.⁷¹

Another PASPA challenge came in 2009 from New Jersey.⁷² Throughout the 1990s and the early 2000s, the casinos in Atlantic City experienced a period of great success.⁷³ However, revenues began to decline with the recession in 2008, and some began to view sports gambling as a way to bolster proceeds from gaming.⁷⁴ New Jersey had missed its opportunity to be grandfathered in under PASPA by implementing legislation that would have allowed sports betting to be conducted legally in Atlantic City casinos when the law was enacted.⁷⁵ However, in 2009, Senator Lesniak, along with several gambling groups, filed an action against the U.S. Attorney General, wanting a declaratory ruling that PASPA was unconstitutional.⁷⁶ This challenge set the groundwork for what would eventually become the Supreme Court case *Murphy v. NCAA*.⁷⁷

In a 6-3 ruling, the U.S. Supreme Court struck down PASPA, which ended the federal ban on betting and allowed states to move forward with legalizing sports

⁶⁶ *Prohibiting State-Sanctioned Sports Gambling: Hearing on S. 473 and S. 474 Before the Subcomm. on Patents, Copyrights and Trademarks of the S. Comm. on the Judiciary*, 102d Cong., 1st Sess. 7 (1992) (statement of Paul Tagliabue, NFL Commissioner).

⁶⁷ Fielkow et al., *supra* note 49, at 32 (citing Professional and Amateur Sports Protection Act, 28 U.S.C.A. §§ 3701-3704 (1992)).

⁶⁸ *Id.*

⁶⁹ *Id.* at 33.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Fielkow et al., *supra* note 49, at 34.

⁷³ *Id.* (citing Christopher L. Soriano, *The Efforts to Legalize Sports Betting in New Jersey—A History*, N.J. LAW. (Apr. 2013), at 22, http://www.duanemorris.com/articles/static/soriano_njlawyer_0413.pdf).

⁷⁴ Fielkow et. al., *supra* note 49, at 34.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *See id.*

betting if they so choose.⁷⁸ In striking down PASPA, the Court relied on a fairly straight forward application of the anti-commandeering doctrine, which teaches that federal laws cannot require states to take actions to implement federal policy.⁷⁹ The opinion, authored by Justice Alito, acknowledges that Americans have had, and continue to have, strong disagreements on the topic of gambling: “Americans have never been of one mind about gambling, and attitudes have swung back and forth.”⁸⁰ However, the opinion sets aside the history of antigambling sentiment in the United States and bases its holding on principles of federalism:

The legalization of sports gambling requires an important policy choice, but the choice is not ours to make. Congress can regulate sports gambling directly, but if it elects not to do so, each state is free to act on its own. Our job is to interpret the law Congress has enacted and decide whether it is consistent with the Constitution. PASPA is not.⁸¹

Legal sports betting in the United States will not take very long to be implemented by the states that wish to move forward in doing so.⁸² Thirteen states, including New Jersey and Pennsylvania, have already implemented legislation and have some form of sports betting available to the public.⁸³ According to a recent study, 32 states will likely have sports gambling of some form within the next five years, and of those 32 states, 14 will likely have some form of sports betting available within the next two.⁸⁴

As state legislatures move to legalize gambling, they will be faced with novel issues.⁸⁵ “Though it [may be] relatively simple for states with casinos to authorize sports books,” most gambling will likely take place online, which is where most fans already play fantasy sports or fill out their March Madness pools.⁸⁶ At the same time, states must take steps to exercise effective control over sports betting to maintain the integrity of the games being played.⁸⁷ Given the opportunity states have in creating legislation, combined with the current surrounding college

⁷⁸ *Murphy v. NCAA*, 138 S. Ct. 1461, 1485 (2018).

⁷⁹ Jeff Ifrah & David Yellin, *Murphy v. NCAA: New Jersey Wins Big After Betting on Unconstitutionality of Federal Sports-Betting Ban*, GEO. WASH. L. REV. ON THE DOCKET (May 30, 2018), <https://www.gwlr.org/murphy-v-ncaa-new-jersey-wins-big>.

⁸⁰ *Murphy*, 138 S. Ct. at 1468.

⁸¹ *Id.* at 1485.

⁸² Cork Gaines & Shayanne Gal, *Here are the States Where Sports Betting is Expected to be Legal Within 5 Years*, BUSINESS INSIDER (May 19, 2018), <https://www.businessinsider.com/states-legalize-sports-betting-gambling-2018-5>.

⁸³ Ryan Rodenberg, *United States of sports betting: An Updated Map of Where Every State Stands*, ESPN (Sept. 25, 2019), http://www.espn.com/chalk/story/_/id/19740480/the-united-states-sports-betting-where-all-50-states-stand-legalization.

⁸⁴ *Id.*

⁸⁵ Ifrah & Yellin, *supra* note 79.

⁸⁶ *Id.*

⁸⁷ *Id.*

athletics, it is crucial that lawmakers exercise every caution in creating law that effectively controls match fixing, including looking to countries with a more robust history of match fixing regulation in order to implement or improve upon what these countries have already done.

II. BACKGROUND

The presence of any sports betting market, legal or illegal, creates an incentive for gamblers to try to fix games or matches.⁸⁸ Gamblers who fix matches will bet on a certain outcome for a sporting event, and then take the actions necessary to make sure that that outcome occurs.⁸⁹ For example, consider the hypothetical basketball game pitting Team A vs. Team B. A sportsbook is offering an even money line on the game, i.e., a bettor who places a \$100 bet on one of the teams will win \$100 if his/her chosen team wins. A gambler intent on fixing this game may place a \$10,000 bet on Team A to win, and then offer to pay the best player on Team B \$5,000 to perform badly. Alternatively, he may offer the referees \$5,000 to make calls that favor Team A. After Team A wins the game, the gambler walks away with \$5,000 in profit.

However, match fixing schemes do not always operate based on binary, win/loss outcomes.⁹⁰ Another way to fix a match or game involves a scheme called point-shaving.⁹¹ Point-shaving involves paying the players or referees in a game to make sure that the team that is favored to win fails to “cover the spread.”⁹² Consider another hypothetical game pitting Team A vs. Team B; however, in this game, Team A is favored to win the game by 12 points. A gambler may place a bet on Team B, and then pay players from Team A or the referees to ensure that Team A does not cover the spread. In this case, Team A will have failed to cover the spread if they win the game by 11 points or less. Point-shaving does not mean letting the other team win—it can be as simple as a missed free throw or layup.⁹³ For example, City College of New York won the college basketball national championship in 1950 despite the fact that the players were shaving points.⁹⁴

⁸⁸ Brad R. Humphreys, *An Overview of Sports Betting Regulation in the United States*, (W. Va. U., Working Paper No. 17-31, 2017).

⁸⁹ *Id.*

⁹⁰ Ray Gustini, *How Point Shaving Works*, THE ATLANTIC (Apr. 12, 2011), <https://www.theatlantic.com/entertainment/archive/2011/04/how-point-shaving-works/349575/>.

⁹¹ *Id.*

⁹² *See id.*

⁹³ *Id.*

⁹⁴ *Id.*

III. MATCH FIXING IN THE UNITED KINGDOM

A. History and Development of Gambling in the United Kingdom

Gambling, and in particular betting on sports, has a long and complicated history in the United Kingdom.⁹⁵ It traces back to at least the 1700s, when the new sport of horse racing was growing in popularity among the middle and upper classes in England.⁹⁶ Harry Ogden, a Lancastrian, set up shop close to England's oldest and most famous racecourse—close enough to be able to see the action but far away enough that he wasn't hassled by the owners of the track.⁹⁷ Ogden realized that some of the horses were better runners than the others, and thus had a better chance of winning the races.⁹⁸ Based on this realization, he began to offer different odds on different horses.⁹⁹ This gave bettors, for the first time in history, the choice of backing the low-risk favorite in exchange for low returns, or the high-risk long-shot for the chance of reaping a bigger reward if their choice was correct.¹⁰⁰ Ogden also built profit margin into his odds.¹⁰¹ The odds that he would give to customers would not be actual reflections of the chances that a horse had to win a given race, but would be adjusted slightly in order to make sure that he and his business were able to make money.¹⁰² In these ways, Ogden established the art of bookmaking and changed the course of gambling history.¹⁰³

Gambling, in general, stretches back centuries further than Ogden's innovations.¹⁰⁴ In fact, gambling was recorded in England as early as the Middle Ages.¹⁰⁵ By 1190, gambling was so commonplace in Richard I's army that he issued an edict forbidding anyone below the rank of Knight from playing a game for money.¹⁰⁶ However, the King made sure to exempt himself from the rules he created.¹⁰⁷

As time moved forward, it became clear that this law had little effect on the actual amount of gambling that went on.¹⁰⁸ The rise of sports like horse racing, cricket, and other pub games in the 1600s led to a rise in gambling as a leisure

⁹⁵ *History of Gambling, Betting, and Bookmakers in the UK*, ONLINEBETTING.ORG.UK, <http://www.onlinebetting.org.uk/betting-guides/history-of-gambling-and-bookmaking.html> (last visited July 26, 2019).

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *History of Gambling, Betting, and Bookmakers in the UK*, *supra* note 95.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ G. Robert Blakey, *Gaming, Lotteries, and Wagering: The Pre-Revolutionary Roots of the Law of Gambling*, 16 RUTGERS L.J. 211, 215 (1985).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *See History of Gambling, Betting, and Bookmakers in the UK*, *supra* note 95.

activity, and even though legislation was enacted in 1739 and 1745 that banned wagers on a wide variety of games, these new rules did little to prevent betting that was going on behind closed doors.¹⁰⁹

Beginning in the early 1800s, bookmakers like Ogden began to cause problems in the UK.¹¹⁰ First, bookmakers did not have to abide by any regulations.¹¹¹ No law required bookmakers to pay out correctly, or even at all, and bookmakers were often lynched by upset customers.¹¹² From the government's point of view, if you weren't smart enough to avoid gambling, then you should not receive the benefit of legal protection.¹¹³ Second, the government did not like that gambling was going untaxed, and therefore not generating any sort of revenue.¹¹⁴ Finally, to the Victorian moral sense of the time, gambling was "a heathen pursuit, an ungodly practice that poisoned the soul."¹¹⁵

Advocates of anti-betting laws drew support for their position from a variety of sources.¹¹⁶ From an economic perspective, people who gambled were seen as lazy workers who burdened economic development.¹¹⁷ Others supported the laws because they were a way to crystallize rank and hierarchy in English society.¹¹⁸ If gambling debts were enforceable, then English aristocrats could possibly lose their hereditary estates.¹¹⁹

In response to these pressures, a House of Lords select committee was formed in the 19th century.¹²⁰ This committee set out a series of recommendations that resulted in the first piece of legislation created by Parliament to control gambling, the 1845 Gambling Act.¹²¹ This Act did not make gambling illegal, but rather sought to discourage the practice by making wagers unenforceable as legal contracts.¹²² This meant that the law would offer a bettor no legal protections if a bookmaker were to run off with their money after taking a bet.¹²³ Because the Act did not actually make betting illegal, a huge number of betting houses began to spring up around the country, much to the dismay of the government.¹²⁴ In order to remedy this problem, Parliament enacted the 1853 Betting Act, which made it

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *History of Gambling, Betting, and Bookmakers in the UK, supra note 95.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Blakey, *supra note 104*, at 231.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *History of Gambling, Betting, and Bookmakers in the UK, supra note 95.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

illegal to use or keep any property for the purposes of betting or gaming.¹²⁵ However, this ultimately led to a huge increase in on-street betting.¹²⁶

England's laws regarding sports betting continued to undergo tumultuous change, culminating in 1960 with perhaps the biggest change to the legality of sports betting.¹²⁷ In that year, the Betting and Gaming Act was enacted, which officially allowed betting shops to open their doors to the public.¹²⁸ Over the next 40 years, the remaining legislation limiting sports betting would be progressively lifted, continuously relaxing gambling law.¹²⁹ For example, the rule dictating that all bets on soccer games must be treble bets (a bet in which the bettor must select the winner of three contests and does not receive any winnings unless they select all three correctly) was lifted in the 1990s, all as a part of the lead-up to the current state of sports betting in England.¹³⁰

B. History of Match Fixing and Corruption in the United Kingdom

Unsurprisingly, with its long and complicated history regarding the legality of sports betting, the UK has also dealt with their fair share of match fixing incidents.¹³¹ Between the years of 1893 and 1898, promotion and relegation between the English Football Leagues weren't decided based upon where a team finished in its league as it is today.¹³² Instead, a system of "test matches," an early precursor to a playoff system, was used.¹³³ In 1898, Stoke City and Burnley, two of England's prominent soccer clubs, went into their final test match knowing that, based upon how the matches to that point had finished, if the match ended in a draw then both teams would gain promotion.¹³⁴ Not surprisingly, that match ended with a score of 0-0, giving both of the clubs the promotion that they wanted.¹³⁵ A match report from the *Athletic News* was scathing in its criticism of the blatant collusion, stating that, "[t]he teams could have done without goalkeepers, so anxious were the forwards not to score."¹³⁶

¹²⁵ *History of Gambling, Betting, and Bookmakers in the UK*, *supra* note 95.

¹²⁶ *Id.*

¹²⁷ Kevin Horridge, *A Compete History of Betting Shops in The UK*, CASINO.ORG (October 10, 2016), <https://www.casino.org/blog/a-compete-history-of-betting-shops-in-the-uk/>.

¹²⁸ *Id.*

¹²⁹ *History of Gambling, Betting, and Bookmakers in the UK*, *supra* note 95.

¹³⁰ *Id.*

¹³¹ See *Match Fixing in Football*, FOOTBALL STADIUMS, <http://www.football-stadiums.co.uk/articles/match-fixing-in-football/> (last visited Nov. 7, 2018).

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Match Fixing in Football*, *supra* note 131.

This incident illustrates the point that the risk of corruption always exists in sports if there is something to be gained.¹³⁷

Match fixing is still a problem that the government and sporting regulatory bodies deal with today.¹³⁸ Joey Barton, a former Premier League soccer player who was banned from the league for 18 months and fined 32,000 pounds for his involvement in betting, claims that English football is rife with corruption.¹³⁹ When asked about whether match fixing occurs in English football, Barton responded,

There is no doubt about it. . . . We only know about the games that have been highlighted, where someone couldn't keep their mouth shut, but how many more are there? They didn't know about me and I was betting in plain view for 12 years. So I have to ask are they equipped to know? And do they want to know?¹⁴⁰

C. Steps Taken by the UK to Address Corruption in Sport

I. Legislation

In the UK, the organizations with the primary responsibility for dealing with corruption in sport are the Department for Culture, Media, and Sport (DCMS), the Gambling Commission, the Crown Prosecution Service, and the National Crime Agency.¹⁴¹ These governing bodies have a number of different legislative tools available to them in order to help combat match fixing.¹⁴² General crime-fighting statutes that can be used against those who partake in match fixing schemes include the 1977 Criminal Law Act and the 2002 Proceeds of Crime Act.¹⁴³ However, the English Parliament has also instituted legislation that deals a bit more specifically with corruption in sport.¹⁴⁴ This includes the 2005 Gambling Act, which instituted a new offense entitled “cheating at gambling” under section 42:¹⁴⁵

¹³⁷ *See id.*

¹³⁸ *See* Luke Brown, *Joey Barton Claims that Gambling and Match Fixing in English Football is Rife*, INDEPENDENT, (June 18, 2017), <https://www.independent.co.uk/sport/football/news-and-comment/joey-barton-football-association-gambling-betting-rife-matchfixing-a7795831.html>.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ Kevin Carpenter, *Tackling Match fixing: a Look at the UK's New Anti-Corruption Plan*, LAWINSPO, (Feb. 13, 2015) <https://www.lawinsport.com/blog/kevin-carpenter/>

[item/tackling-match-fixing-a-look-at-the-uk-s-new-anti-corruption-plan](https://www.lawinsport.com/blog/kevin-carpenter/item/tackling-match-fixing-a-look-at-the-uk-s-new-anti-corruption-plan).

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

- (1) A person commits an offence if he–
 - (a) cheats at gambling, or
 - (b) does anything for the purpose of enabling or assisting another person to cheat at gambling.
- (2) For the purposes of subsection (1) it is immaterial whether a person who cheats–
 - (a) improves his chances of winning anything, or
 - (b) wins anything.
- (3) Without prejudice to the generality of subsection (1) cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with–
 - (a) the process by which gambling is conducted, or
 - (b) a real or virtual game, race or other event or process to which gambling relates.
- (4) A person guilty of an offence under this section shall be liable–
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding the statutory maximum or to both.¹⁴⁶

This offense ostensibly addresses all the forms that match fixing can come in, and carries with it a prison term of up to two years.¹⁴⁷ However, many stakeholders felt that section 42 of The Gambling Act had not had the desired effect on helping to stop match fixing.¹⁴⁸ This included the Sports Betting Group (SBG), which met with the DCMS in December of 2013 to discuss various issues related to betting integrity and match fixing.¹⁴⁹ The attitude of the SBG towards the existing legislation was very clear:

The existing legislation is out of date and does not criminalise the [actual] “fixing” (either “match fixing” or “spot fixing”).... Sports bodies feel that s.42 currently makes it extremely difficult to provide the requisite levels of information to enable the CPS to proceed with a prosecution...Indeed, we are unaware of any cases of betting-related match fixing that have been successfully prosecuted under s.42, which clearly highlights the unsuitability of the provisions.¹⁵⁰

Additionally, the SBG felt that the possible sentences for a violation of Section 42 were not sufficient: “there is a concern that the custodial sentences set

¹⁴⁶ Carpenter, *supra* note 141.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Carpenter, *supra* note 141.

out for offences under s.42 are not nearly enough.”¹⁵¹ These concerns were brought to light during the passage of The Gambling (Licensing and Advertising) Act of 2014, and an amendment was proposed to Section 42 intended to mimic a recently adopted, similar amendment in Australia widening the conduct captured and substantially increasing possible penalties. However, the amendment was not adopted.¹⁵²

2. UK Anti-Corruption Plan

The push for stronger regulations dealing with sports betting from groups like the SBG eventually led to the UK Anti-Corruption Plan.¹⁵³ In 2014, the UK issued a cross-government anti-corruption plan that brought together all of the UK’s activity against corruption in one place.¹⁵⁴ The purpose of the plan was to make “sure that the UK takes a ‘whole of government’ approach to combating corruption and to ensuring that the actions in this document are delivered.”¹⁵⁵ Within this report, the drafters included a section that dealt specifically with the problems of match fixing and corruption in sport.¹⁵⁶ In regard to corruption in sport, the report stated:

Sport relies upon high standards of integrity and a fair application of the rules. Match fixing and corruption in sport undermines that ethos and has a serious negative impact upon its reputation and financial viability. It undermines the reputation and commercial viability of legitimate sports betting business; and it has an impact on the social, political and economic benefits derived from sports and sports betting.¹⁵⁷

Overall, the theme of the report in this section is that the key to ending corruption in sport is better communication between all relevant institutions and sporting bodies:

To build a better picture of corruption in sport and sports betting, and to increase reporting, the Gambling Commission has developed a new reporting facility with the police and Crimestoppers, to ensure that reports are dealt with even more

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *See id.*

¹⁵⁴ UK Anti-Corruption Plan, (Dec. 2014) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf.

¹⁵⁵ *Id.* at 7.

¹⁵⁶ *Id.* at 35-37.

¹⁵⁷ *Id.* at 35.

effectively. The Commission will contribute to the Home Office work to identify a single reporting mechanism.¹⁵⁸

As noted by the number of institutions referenced in stopping match fixing, this problem is not an easy one to solve and requires cooperation between several distinct organizations.¹⁵⁹

IV. MATCH FIXING IN SOUTH ASIA

Match fixing is not limited to what would be considered the world's major sports leagues, from an American perspective—it is a global phenomenon.¹⁶⁰ In South Asia, it has taken on the status of a de facto entertainment industry.¹⁶¹ Betting on cricket, the major sport in the region, has adopted a model similar to that of Major League Baseball in the United States, which has induced match fixing and other forms of corruption.¹⁶²

A. Development of Sports Betting in South Asia

Since the dawn of the 21st century, there has been a gradual increase of gambling in cricket.¹⁶³ As a result of increased betting, doubt has been cast on the legitimacy of matches involving international teams.¹⁶⁴ A couple of the major factors that have combined to negatively impact the legitimacy of cricket matches in India have been the fact that gambling on the Indian subcontinent is illegal and therefore betting runs through unlicensed syndicates, and the rise of the T20 format of cricket.¹⁶⁵

The T20 format of cricket differs from the traditional cricket format, in which a match can last for many days.¹⁶⁶ T20 cricket is a much shorter form of cricket in which each team bats for 20 “overs” in an inning, and the matches can be finished in about three hours, similar to the timescale of the major American sports leagues.¹⁶⁷ Because of this shorter timeframe, the matches are much more accessible to a general audience.¹⁶⁸ The similarity of this newer form of cricket is not by accident—T20 cricket tournaments were instituted in India after the victory

¹⁵⁸ *Id.* at 36.

¹⁵⁹ *UK Anti-Corruption Plan*, *supra* note 154.

¹⁶⁰ Zia Akhtar, *Match Fixing, Illegal Gambling, and Cricket in the Indian Subcontinent*, 33 *ENT. & SPORTS L.* 75, 75 (2017).

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Akhtar, *supra* note 160, at 75.

¹⁶⁶ *Id.* at 75-76.

¹⁶⁷ *Id.* at 76.

¹⁶⁸ *See id.*

of the Indian team in the inaugural World Cup in 2007, and the Indian Premier League (IPL) drew inspiration from the NBA.¹⁶⁹ The IPL operated under a franchise system based on hiring and transferring players to other teams in the same competition.¹⁷⁰ The franchises within the league were auctioned with the highest bidder winning the rights to own the team representing each city as their franchise.¹⁷¹ This invited corporations into the mix, who provided the financing, and made it possible for international players to be contracted to play for the teams.¹⁷² The teams in the league were labeled in a glorified manner similar to that of the major American sports leagues.¹⁷³ All of this combined to create huge profits for the entertainment industry, which drew unlicensed gamblers to come and attempt to take a cut.¹⁷⁴

As cricket and the industry surrounding it has grown, it has emulated the path that baseball took in its early days regarding betting.¹⁷⁵ In the 18th century, gambling on cricket was a habit of the aristocracy, and matches were often the subject of wagers between opposing patrons.¹⁷⁶ However, rules were relaxed in the 1970s and the intense commercialism that the game experienced at the end of the 20th century attracted a new betting craze among the general population.¹⁷⁷ The betting craze has grown to its current height today, despite the fact that gambling is illegal in the country.¹⁷⁸ As discussed previously, the development of cricket in the T20 format has provided a more watchable, episodic structure within the sport.¹⁷⁹ This structure provides more opportunities for corruption; it allows players to engage in more subtle forms of corrupt behavior and conspire to affect certain instances of the match, e.g., runs scored in a session or the number of no balls delivered, in order to make money, either by being paid off by gamblers or by gambling themselves by placing bets.¹⁸⁰

Gambling in India has exploded in spite of the fact that betting on sports matches is currently illegal.¹⁸¹ “The legislative framework that governs gambling is based around two statutes—the Public Gambling Act (PGA) of 1867, which makes operating a gambling house, assisting in operating a gambling house, visiting a gambling house (whether gambling or not), financing gambling, and being in possession of gambling devices a crime.”¹⁸² “The penalty for violating this statute

¹⁶⁹ *Id.*

¹⁷⁰ Akhtar, *supra* note 160, at 76.

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Akhtar, *supra* note 160, at 76.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ Akhtar, *supra* note 160, at 76.

¹⁸¹ *Id.*

¹⁸² *Id.*

is a fine not to exceed 200 rupees or up to three months in prison.”¹⁸³ The second statute governing sports betting is the Indian Contract Act of 1972, which treats agreements based on bets as void.¹⁸⁴ Allowing betting or gambling in India would require amending the provisions of both statutes.¹⁸⁵

Gambling cartels in India originated in Mumbai and have quickly grown national with the expansion of cricket.¹⁸⁶ The Indian criminal organizations accept bets from Pakistani syndicates based in Karachi and Lahore, whose representatives can organize bets through the avenues available to them in their country.¹⁸⁷ The initial ripples of corruption began in Pakistan in 1994-95, when Australians Shane Warne and Mark Waugh claimed that they had been offered money to throw a test match by the captain of the Pakistani team, Salim Malik.¹⁸⁸ The players were fined \$10,000 and \$8,000, respectively, for the crime of selling information to illegal bookmakers.¹⁸⁹

In India, match fixing came into public view when it was alleged that the South African captain, Hans Cronje, had accepted bribes on his team’s tour to India in 1999-2000.¹⁹⁰ Cronje was charged by Delhi police with fixing South Africa’s matches with India for money.¹⁹¹ The police also released transcripts of a conversation between Cronje and an Indian businessman suggesting that a “deal” was in place.¹⁹² Cronje initially denied the allegations, but information from a former teammate doomed his case.¹⁹³ Eventually, he would break down before the King Commission in South Africa and admit his involvement in the schemes.¹⁹⁴

Allegations against Indian cricketers brought the Indian government into the picture and moved it to action.¹⁹⁵ The Indian Cricket Board (BCCI) ordered the Central Bureau of Investigation (CBI) to investigate the match fixing allegations and disclose whether any Indian cricketer or official had been involved in the corruption.¹⁹⁶ This investigation included tax raids across the country of the cricketing elite by the Inland Revenue, including raids on national coach Kapil Dev and former players Mohammad Azhruddin, Ajay Jadeja, Nayan Mongia, and Nikhil Chopra.¹⁹⁷ Kapil Dev resigned as the coach of the team on September 12, 2000, but

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ Akhtar, *supra* note 160, at 76.

¹⁸⁶ *Id.* at 77.

¹⁸⁷ *Id.*

¹⁸⁸ Malcom Conn, *Live from the Warne-Waugh affair*, ESPN (June 24, 2010),

<http://www.ESPN.com>

<http://www.espnricinfo.com/match-fixing-anniversary/content/story/463242.html>.

¹⁸⁹ *Id.*

¹⁹⁰ *The Cronje Chronicles*, ESPN (July 22, 2013), <http://www.espnricinfo.com/ci/content/story/654219.html>.

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ Akhtar, *supra* note 160, at 78.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

stated that his resignation did not amount to an admission of guilt.¹⁹⁸ The report compiled by the CBI was the most damning to Mohammad Azhruddin, the team's former captain, who allegedly fixed games with the help of his former teammates. These allegations led to a lifelong ban for the three players, which was enforced by the BCCI.¹⁹⁹ However, the players did manage to escape legal punishment, as there was no law related to match fixing or betting in the Indian Penal Code of 1861.²⁰⁰ In addition, there were no criminal charges filed for cheating under the Public Gambling Act of 1867 because of the ambiguous position of the law in this regard, and the improbability of an investigating agency being able to obtain enough legal evidence.²⁰¹

The ban that was imposed by the BCCI on the former Indian captain and his teammates was eventually overturned, with the court stating that there was not sufficient evidence that the players had been involved in match fixing.²⁰² This led to the question of why the players had been proscribed in the first place if there was no convincing evidence that they had accepted offers from the betting syndicates in the first place.²⁰³ However, the harshest section of the CBI report was not the disclosures against the cricketers, but rather the charge that the BCCI had not done enough in the first place to prevent the tentacles of the illegal gambling industry from infiltrating cricket's domain.²⁰⁴ The report, titled *Match Fixing and Related Malpractices*, which was prepared after a detailed investigation and questioning of several players, concluded that the Board had failed to ethically monitor the players. As stated in the report:

It is obvious that in spite of their public posturing, the BCCI over the past decade or so was negligent in spite of indications of this malaise making inroads into Indian cricket. The natural corollary to the fact that disclosures during the CBI enquiry have revealed a thriving player-bookie nexus in India for nearly a decade, begs the question: What was the BCCI doing all these years? CBI has enquired into the role and function of BCCI to evaluate whether it could have prevented the malpractices.²⁰⁵

However, the report somewhat exonerated the officials by stating that the "affairs of the BCCI has not disclosed any direct evidence of nexus of any past or present office bearers of BCCI with the betting syndicate."²⁰⁶ Indian cricket was presumed to have knowledge of insider dealings and, according to the report, was

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ Akhtar, *supra* note 160, at 78.

²⁰¹ *Id.*

²⁰² *Id.* at 79.

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ CBI's Report on Cricket Match Fixing and Related Malpractices, (Nov. 2, 2000) <https://www.scribd.com/doc/54707971/CBI-s-REPORT-ON-CRICKET-MATCHFIXING-AND-RELATEDMALPRACTICES>.

²⁰⁶ *Id.*

not “ignorant of the match fixing and related malpractices that were happening in cricket.”²⁰⁷ The absence of any action taken against senior cricket players and their later exoneration suggested that match fixing was an accepted part of the entertainment industry and that the administration could not take any contradictory action against its involvement in the sport.²⁰⁸ In addition, it showed complacency within the cricket aristocracy in allowing this corruption to continue.²⁰⁹

The cricket governing board and the Indian government, during the initial emergence of the corruption in cricket, took a *laissez faire* approach to disciplining players and the other people involved.²¹⁰ Evidence has emerged revealing how underground bookies operate in setting up the contacts with the players who agree to be part of the conspiracy to spot fixed matches.²¹¹ In one of the T20 matches that took place in the IPL, there were criminal proceedings against three Rajasthan Royal cricketers, Shanthakumaran Sreesanth, Ajit Chandila, and Ankeet Chavan, who were accused of match fixing and cheating by the police in Delhi.²¹² In addition, eleven bookies were arrested under the Maharashtra Control of Organized Crime Act of 1999.²¹³ The investigation that followed of accused bookie Ashwani Aggarwal revealed that he possessed a master account on betfair.com, an online betting site registered in the United Kingdom and Australia.²¹⁴ Aggarwal sold passwords to purchasers who obtained a pre-paid facility for holding an account with him by offering him a certain amount in Indian currency.²¹⁵ Aggarwal would then transfer the money to an offshore bank account using Hawala channels and open a sub-account on the betting site for the purchaser that would allow him to bet freely, without carrying out transactions in foreign currency directly, which would have brought him under scrutiny from the Reserve Bank of India.²¹⁶ Aggarwal’s account was used to channel a large amount of funds gained through betting that was fixed by criminal syndicates.²¹⁷ The encrypted technology used was through handsets, SIM cards, television sets, dish antennas, decoders, etc.²¹⁸ Aggarwal preferred to use farmhouses.²¹⁹ He would install the electronic gadgets in one room for receiving live telecasts of the ongoing matches, and for cricket betting he was using special decoders which gave him live streaming capabilities, without any breakup on account of advertisements.²²⁰

²⁰⁷ *Id.*

²⁰⁸ Akhtar, *supra* note 160, at 79.

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Id.* at 81.

²¹² *Id.*

²¹³ Akhtar, *supra* note 160, at 81.

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ Akhtar, *supra* note 160, at 81.

²¹⁹ *Id.*

²²⁰ *Id.*

B. Steps Taken by India to Address Corruption in Sport

The Supreme Court of India has recently taken steps to address corruption in the IPL.²²¹ One of the major steps taken was appointing a panel composed of three justices to be headed by the former Chief Justice Lodha.²²² The panel was given the task of investigating the betting and match fixing scandal in 2015, which led to the acquittal of Sreesanth and his teammates in the Delhi High Court.²²³ The findings of the panel led to the suspension of the Chennai Super Kings and Rajasthan Royals teams for two years.²²⁴ In addition, Gurnath Meiyappan, the former team principal of Chennai, and Raj Kundra, the former co-owner of the Rajasthan Royals, were banned from the sport of cricket for organizing betting and bringing the game as a whole into disrepute.²²⁵ The Panel also recommended that India should enact legislation to reduce corruption and to instill a sense of trust in the game of cricket in the general public.²²⁶

The Lodha Report drew a distinction between legal betting and match fixing, and recommended legalizing the former while providing a defined legislative framework for dealing with the latter.²²⁷ Importantly, the panel suggested that players, team officials, members, and employees be prohibited from gambling on sports if it were to be legalized.²²⁸ In addition, the panel also realized that simply prohibiting gambling would not be enough without effective legislation and recommended a broad law that would allow betting but prohibit match fixing in India. Their report stated:

There is a fundamental difference between betting and match/spot-fixing. The latter interferes with the integrity of the game and attempts to change the course of the match. On the other hand, betting is a general malaise indulged by different sections of society. “While the issue of betting can be effectively dealt with by providing a legal framework, match/spot-fixing is neither pardonable nor a matter for regulation.”²²⁹

The panel recognized that preventing gambling does not have the practical effects that those who are proponents of the law would desire, i.e., preventing

²²¹ *Id.* at 82.

²²² *Id.*

²²³ Akhtar, *supra* note 160, at 82.

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ Akhtar, *supra* note 160, at 82.

²²⁹ Harish V. Nair, ‘There is a Difference Between Betting and Match Fixing’: Lodha Panel Recommends Steps to Legalise Betting with Strong Safeguards, DAILY MAIL ONLINE (Jan. 4, 2016), <https://www.dailymail.co.uk/indiahome/indianews/article-3384447/There>

[difference-betting-matchfixing-Lodha-panel-recommends-steps-LEGALISE-betting-strong-safeguards.html](https://www.dailymail.co.uk/indiahome/indianews/article-3384447/There-difference-betting-matchfixing-Lodha-panel-recommends-steps-LEGALISE-betting-strong-safeguards.html).

betting and match fixing altogether.²³⁰ As stated in the report, “those interested in betting have gone underground, with illegal bookies managing affairs. As is inevitable, the hawala system has awakened to these channels and money laundering has become an inevitable outcome.”²³¹ The Supreme Court of India, in a recent judgment, endorsed the findings of the IPL corruption and stated that the report should serve as the basis for potential new legislation.²³²

Other steps have been taken by Indian authorities to try to prevent corruption. “In February 2017, the Chief Executives’ Committee of the ICC authorized the global cricket body’s management to initiate the process for an amendment to the ISS’s Anti-Corruption Code that would permit extraction of data from mobile phones of players for the duration of international matches through the use of specialized data extraction equipment and software.”²³³ If this proposed amendment is accepted, then the anti-corruption unit will have full access to the data stored in players’ phones.²³⁴ Along with this, steps would need to be taken to ensure watertight security of the extracted data because of the amount of private information stored on phones.²³⁵

V. CONCLUSION

As is evident, match fixing is a global issue, and has plagued countries with and without legal sports betting systems in place for centuries. However, the first step in addressing the problem is likely the legalization of gambling.²³⁶ According to Chris Eaton, a veteran of the Victoria Police in Australia (one of the few jurisdictions in the world with specific match-fixing regulations), and the current Sports Integrity Director at the International Centre for Sport Security, “the first thing you must do is legalize or recognize sport betting globally, around the world. No more of this nonsense of prohibition. All prohibition does is drive sport betting into the netherworld, into the darkness, and that’s where criminals thrive.”²³⁷ Contrary to the claims of the NCAA, there already exists a large, illegal sports betting market, and the lack of legality makes it easier for match-fixers to work. “They’ve [established a global regulatory structure] for banking. They’ve done this with other financial instruments around the world, because they recognize the

²³⁰ Akhtar, *supra* note 160, at 82.

²³¹ *Id.*

²³² *Id.*

²³³ *Id.* at 83.

²³⁴ *Id.*

²³⁵ Akhtar, *supra* note 160, at 83.

²³⁶ Brian Blickenstaff, *An Ex-Interpol Agent Tells Us What to do About Match Fixing*, VICE (Nov. 26, 2017), https://www.vice.com/en_nz/article/ywb8ax/an-ex-interpol-agent-tells-us-what-to-do-about-match-fixing.

²³⁷ *Id.*

money involved. If you don't control sport betting properly, it will continue to rape sport, and sport—or society—will be the victim."²³⁸

John Abbott, chair of the INTERPOL's Integrity of Sport Steering Group, has stated that the five key elements in any strategy against match fixing are "partnerships, information exchange, co-ordination, prevention strategies, and proactivity."²³⁹ Moving forward, as states begin, and continue with, the process of legalizing sports betting, it is important that they take steps to directly counter match fixing. This includes specific match fixing legislation criminalizing the act as such. It includes increased cooperation between sports governing bodies, the legislatures of each state, and the companies who will be taking the bets. Above all, it is paramount that states realize and appreciate the full extent of the potential match-fixing problem and proactively attacks it with full force.

²³⁸ *Id.*

²³⁹ Kevin Carpenter, *Global Match Fixing and the United States' Role in Upholding Sporting Integrity*, 2 BERKELEY J. ENT. & SPORTS L. 214, 229 (2013).

