

Progressive Sports Legislation: The Need of the Hour¹

India sure punches well below its weight when it comes to sports. At every Olympic Games, rivals China and Russia walk away with multiple gold medals. For fans in India, one of the world's most populous nations and fastest growing economies, the event is an exercise in despair. India has managed just one gold medal since 1980, when shooter Abhinav Bindra became the first individual to win gold for his country at the 10 meter air rifle event in 2008. The country's previous gold medals, eight between 1928-1980, were all in field hockey. To put India's historic performance in context, Michael Phelps has won as many medals on his own as Team India has managed since 1900. As the dust settles over India's disastrous performance at the Olympics, the federations have now gone into the review mode to analyze where it all went wrong. The National Rifle Association of India (NRAI) constituted a four-member committee with Abhinav Bindra as its chairman to examine in a 'cold and ruthless manner' the reasons of India's debacle. Shooting and wrestling are two disciplines where India were expected to return with medals. While the shooters returned empty handed, Sakshi Malik won a solitary medal for India in wrestling. However, the tally in the sport came down from the London Games, where Sushil Kumar and Yogeshwar Dutt won a silver and bronze medal respectively.

Corruption has been the major pathology in sports since time immemorial. The Indian sports environment has been abuzz with activity in recent years. A new private sports league announced practically every quarter. Sports sponsorship in India grew 12.3% to Rs.5,185.4 crore (~US\$ 800 million) in 2015 from Rs.4,616.5 crore (~US\$ 700 million) in the previous year. The broadcast rights for the IPL are already valued at over Rs. 900 crore (~US\$ 130 million) a year, a figure that is expected to double when the existing broadcast rights deal expires. The brand value of the IPL was estimated to be US\$3.5 billion in 2015 by American Appraisal, a Division of Duff & Phelps.⁴ According to the BCCI, the 2015 IPL season contributed Rs.1,150 crore (~US\$ 170 million) to the gross domestic product of the Indian economy.

The increase in private investment in sport, combined with the resulting appreciation of the importance of public trust in authenticity of results, has brought the issue of participant-integrity to the forefront of legal discourse. Indian sport is no stranger to challenges of integrity. Match fixing, event manipulation and illegal betting have shaken the country's primary sport, cricket, more than

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once in the last two decades. Combine the issue of fixing with age fraud, doping and sexual harassment and we have a quartet of familiar faces that are making their presence felt not only nationally but also internationally. For example, 58 Indian weightlifters were found doping in 2015 alone and the country's athletes regularly rank in the top 3 in the World Anti-Doping Agency's annual doping report. The age fraud issue is so rampant in cricket that the Board of Control for Cricket in India ("BCCI") has had to take the extraordinary step of prohibiting its own players from playing more than one edition of the Under-19 World Cup. Multiple age-related cases and disputes have come up in badminton, another sport gaining in popularity.

That said, in India, it is the issue of fixing that has been the most prominent integrity issue. The credibility of the Indian Premier League ("IPL") has not only been called into question by fixing allegations, but various related events in the league have had a domino effect, with the outcrop being the Supreme Court-appointed Lodha Committee's Report and the actions that the Supreme Court might soon recommend based thereon. These legal developments are expected to alter the way cricket and, for that matter, all other sports in India will be governed. In practice, the existing general criminal laws in India have significant limitations in their application to matters of sports integrity. For example, offences in the nature of 'cheating' requires a victim of the alleged act to be 'deceived' such that such person 'deliver[s] any property to any person' and this causes such person 'damage or harm' 'in body, mind, reputation or property'. For an alleged offence of match fixing, the prosecution has found it difficult, if not impossible, to prove these constituent elements of such an offence, finding it particularly challenging to identify a victim and the damage or harm caused to him or her. It is to be remembered that this is in a context where betting is illegal and punters cannot be the putative victims, a legal route used in other jurisdictions. This has led to those accused of 'match fixing' being tried under laws relating to organized crime (such as the Maharashtra Control of Organised Crime Act, 1999), on the basis that they have conspired with the underworld. But this is more out of compulsion rather than by choice. With the substantive framework being ambiguous at best, this also creates significant limitations in criminal procedure, of investigation, evidence gathering and prosecution of offences. Administrative bodies that police sport within the federations do not have legal powers of search and investigation and those state bodies that do have these powers are unable to exercise them effectively.

The situation of corruption has also been traced in a number of sports progressive countries like South Africa and Australia. South Africa enacted the Prevention and Combating of Corrupt Activities Act, 2004 to provide for the strengthening of measures to prevent and combat corruption and corrupt activities; to provide for the offence of corruption and offences relating to corrupt activities; to provide for investigative measures in respect of corruption and related corrupt activities; to provide for the establishment and endorsement of a Register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts; to place a duty on certain persons holding a position of authority to report certain corrupt transactions; to provide for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities; and to provide for matters connected therewith. It takes within itself companies, individuals, public officers, public international organization, etc.. Section 16 of the Act inculcates offences in respect of corrupt activities relating to gambling games or games of chance.

In 2011, all Australian sports ministers endorsed on behalf of their governments, a National Policy on Match-fixing in Sport (the National Policy) with the aim of protecting the integrity of Australian sport. The National Policy, which is strongly welcomed by sporting codes and the betting industry, is underpinned by a nationally consistent legislative approach, strong links between governments, major sports, betting operators and law enforcers, and international collaboration. The Australian Government has established the National Integrity of Sport Unit to provide national oversight, monitoring and coordination of efforts to protect the integrity of sport in Australia from threats of doping, match-fixing and other forms of corruption. The specific functions of the National Integrity of Sport Unit are to:

- coordinate legislation, regulation, policies and administrative practices between the Commonwealth and the States to allow governments to adopt appropriate measures to ensure sport is drug-free
- provide national coordination, monitoring, reporting, and strengthen relationships between state and territory governments, regulators, sporting organisations, law enforcement agencies, and other agencies as appropriate

- work with like-minded nations, the international sports movement, betting operators and regulators on match-fixing and fraudulent betting issues and advocate for a global response to match-fixing
- work with relevant sports governing bodies and local organising committees to develop integrity strategies for the 2015 Asian Cup and Cricket World Cup
- provide advice and work with individual sports to ensure a robust framework is adopted across the sporting codes and there are no gaps for criminal groups to use as soft targets
- develop and maintain a website as a resource centre for key stakeholders to access up to date information including integrity tools, education, contacts and research
- compliance audits of sports to ensure policies continue to be effectively implemented
- support sports through Match-fixing crisis situations (i.e. advice, issues management)
- introduce mechanisms for whistle-blowing in the area of manipulation of sports results to ensure disclosure of information
- investigate complaints made about the integrity processes and systems of a sports controlling body, and
- undertake research and provide information on latest best practice to support international, state and territory governments, regulators, sporting organisations law enforcement agencies, regulators and other agencies as appropriate to promote consistent and effective approaches to protect the integrity of sport.

Such bold measures have to be taken by the Indian Legislators to curd corruption issues in relation to Sports. The International Olympic Charter contains Rule 40 which states that “*Except as permitted by the IOC Executive Board, no competitor, coach, trainer or official who participates in the Olympic Games may allow his person, name, picture or sports performances to be used for advertising purposes during the Olympic Games.*” The purpose of Rule 40 includes:

1. To preserve the unique nature of the Olympic Games by preventing over-commercialisation.
2. To allow the focus to remain on the athletes' performance. To preserve sources of funding, as 90 per cent of the revenues generated by the IOC are distributed to the wider sporting movement.
3. This means that USD 3.25 million everyday goes to the development of athletes and sports organisations at all levels around the world.

Keeping in view the international scenario to curb corruption, the need of the hour is to draft a progressive sports legislation which can eradicate all the pathologies connected to India's Sport scenario. By progressive it means that offences related to sports should be adjudicated through a single document. Multiple legislations can create overlapping issues and tedious adjudication. For upliftment, legal sports sensitization has to be brought under one roof.