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ASSER International Sports Law Series

Sports Betting: Law and Policy

Paul M. Anderson
Ian S. Blackshaw
Robert C. R. Siekmann
Janwillem Soek *Editors*

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Paul M. Anderson · Ian S. Blackshaw
Robert C. R. Siekmann · Janwillem Soek
Editors

Sports Betting: Law and Policy

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Paul M. Anderson
Marquette University Law School
National Sports Law Institute
West Michigan Street 1215
Milwaukee, WI 53201
USA
e-mail: paul.anderson@marquette.edu

Ian S. Blackshaw
T.M.C. Asser Institute
ASSER International Sports Law Centre
R.J. Schimmelpennincklaan 20–22
2517 JN, The Hague
The Netherlands
e-mail: ian.blackshaw@orange.fr

Robert C. R. Siekmann
T.M.C. Asser Institute
ASSER International Sports Law Centre
The Hague
The Netherlands
e-mail: r.siekmann@asser.nl

Janwillem Soek
T.M.C. Asser Institute
ASSER International Sports Law Centre
The Hague
The Netherlands
e-mail: J.soek@asser.nl

ISSN 1874-6926
ISBN 978-90-6704-798-2
DOI 10.1007/978-90-6704-799-9

e-ISBN 978-90-6704-799-9

Library of Congress Control Number: 2011936528

© T.M.C. ASSER PRESS, The Hague, The Netherlands, and the authors 2012

Published by T.M.C. ASSER PRESS, The Hague, The Netherlands www.asserpress.nl
Produced and distributed for T.M.C. ASSER PRESS by Springer-Verlag Berlin Heidelberg

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Cover design: eStudio Calamar S.L.

Printed on acid-free paper

Springer is part of Springer Science+Business Media (www.springer.com)

Series Information

Books in the *ASSER International Sports Law Series* chart and comment upon the legal and policy developments in European and international sports law. The books contain materials on interstate organisations and the international sports governing bodies, and will serve as comprehensive and relevant reference tools for all those involved in the area on a professional basis.

The Series is developed, edited and published by the ASSER International Sports Law Centre in The Hague. The Centre's mission is to provide a centre of excellence in particular by providing high-quality research, services and products to the sporting world at large (sports ministries, international—intergovernmental—organisations, sports associations and federations, the professional sports industry, etc.) on both a national and an international basis. The Centre is the co-founder and coordinator of the Hague International Sports Law Academy (HISLA), the purpose of which is the organisation of academic conferences and workshops of international excellence which are held in various parts of the world. Apart from the Series, the Centre edits and publishes *The International Sports Law Journal*.

Series Editors

Dr. Robert C. R. Siekmann, Director Asser International Sports Centre
e-mail: r.siekmann@asser.nl

Dr. Janwillem Soek
e-mail: J.soek@asser.nl

M. A. van der Harst LL.M.
e-mail: m.van.der.harst@asser.nl

Editorial Office

ASSER International Sports Law Centre
T.M.C. Asser Institute
P.O. Box 30461
2500 GL The Hague
The Netherlands
www.sportslaw.nl



Foreword

I am very pleased and honoured to have been invited to write the foreword to this timely book. I use the word ‘timely’ advisedly to characterise this book as, sadly, more and more cases of corruption—of one kind or another—in sport are regularly being exposed by the world’s media. Not surprisingly, perhaps, because there is so much to play for, not only in sporting terms but also in financial ones as sport nowadays is big business and a global industry in its own right!

Take, for example, a couple of recent instances of corruption in sport. The disclosures by *The Sunday Times* newspaper of corruption in the bidding process for the 2018 FIFA World Cup, resulting in bans being imposed on the two members of the FIFA Executive Committee alleged to have been involved in this scandal by offering their votes to the England bidding team in return for substantial monetary payments. And also the exposure by the *News of the World* newspaper on ‘match fixing’ or—more properly described—‘spot fixing’ in cricket involving certain members of the Pakistan National Cricket Team during the 4th Test between England and Pakistan at Lords in which, it is alleged, that they deliberately bowled ‘no balls’ at predetermined points in an over, as pre-arranged and agreed with a certain bookmaker, who would take bets on when ‘no balls’ would be bowled during the match.

Betting and sport have been—to some extent—uneasy bedfellows probably since the dawn of time: for example, lottery games were originally played in China some three thousand years ago! Not only is it enjoyable to watch a sporting event, but added excitement and interest come from also being able to bet on the outcome of it. In fact, horse racing depends upon betting for its very survival as a sport. As David Forest points out in his contribution to this book:

...betting has been a pervasive influence on sport. For example, betting companies have become a dominant source of sponsorship in English Premier League football and the famous shirts of Real Madrid are now adorned with the logo of a bookmaker.

This book looks at the Law and the Policy on Betting and Sport in many countries around the world—sport is a global phenomenon—and thus provides a very useful and valuable comparative survey on a subject that is so vital to

safeguarding and preserving the integrity of those sports in which betting is legally allowed.

In fact, the International Olympic Committee now requires all athletes participating in the Summer and Winter Games to sign a declaration that they will not be involved in betting. Also, the European Governing Body of Football (UEFA) has introduced a sophisticated system for monitoring betting markets on matches under its or its members' jurisdiction. And the United Kingdom Government has recently enunciated a formal policy requiring sports to defend themselves against 'fixers' (UK Department for Culture, Media and Sport, 2010).

Of course, with such preventive measures in place, sport and betting can—and do, in fact—coexist for their mutual benefit. Indeed, National Lotteries raise substantial sums of money for 'good causes,' which include the funding of sports events and sports persons.

I warmly congratulate Professors Paul Anderson, Ian Blackshaw and Robert Siekmann, the Editors of this book, as well as the contributors, in assembling such a mine of useful information on such an important subject; and also the TMC Asser Press for publishing this material.

I would, therefore, welcome and heartily commend this book to sports lawyers and all others with a particular professional, academic and policy interest in the subject, including those who are involved in the organisation and administration of National Lottery Schemes benefitting sport.

After all, the essence of sport is 'fair play' and illegal and unfair betting arrangements and the manipulation of the outcomes—in one way or another—of sporting events are completely anathema and contrary to this fundamental concept and principle. And long may this be so!

The Hague, January 2011

Tjeerd Veenstra
Director of the Dutch De Lotto
Second Vice-President, The European Lotteries

Acknowledgments

This publication was realised with the cooperation of



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Chapter 1

Introductory Remarks

Ian S. Blackshaw

Gambling is a significant global industry, which is worth around 0.6% of world trade, that is, around US\$ 384 billion; and Gambling on the outcome of sports events is a very popular pastime for millions of people around the world, who combine a flutter with watching and enjoying their favourite sports. But, like any other human activity, sports betting is open to corruption and improper influence from unscrupulous sports persons, bookmakers and others who are out to make a quick—but substantial buck—unjustly and unfairly.

As Tjeerd Veenstra, Director of the Dutch Lotto and Second Vice President of The European Lotteries, quite rightly points out in his foreword to this book that, there is an uneasy relationship between sport and betting. In fact, they may be incompatible if the one influences the other, so that the outcome of the sporting event, as well as the betting itself, is not left to chance, but are—in one way or another—interfered with, or manipulated, to use the jargon, ‘fixed.’ Match-fixing, unfortunately, is quite prevalent in sport, from time to time.¹ But, one thing sport and betting do have in common is that, in their pure forms, they both require ‘integrity’ if they are to co-exist and fulfil their respective purposes. Put another way, sport and betting must be conducted in a fair and open manner, without criminals getting involved.

Ian S. Blackshaw—Member of the Court of Arbitration for Sport and Honorary Fellow of the ASSER International Sports Law Centre.

¹ For a recent high-profile example, see the article on the England Pakistan Fourth Test Cricket Match Fixing Case – ‘*It all comes down to proof*’—by Ian Blackshaw in *The Times* newspaper on 9 February, 2010. For an extended version of this article, see *International Sports Law Journal*, ISLJ 2010/3-4, at pp. 186 & 187.

I. S. Blackshaw (✉)
Court of Arbitration for Sport, ASSER International Sports Law Centre,
The Hague, The Netherlands

This point is well made by the UK Gambling Commission in a Policy Position Paper on its approach to Betting Integrity in general and Sports Betting in particular, which was published in March 2009, in the following terms:

Betting integrity is important to the Commission because of the risks any failure would pose to the licensing objectives of keeping gambling fair and open and keeping crime out of gambling. While any lack of integrity in the way in which an event is managed, or the results reported, will detract from the fairness and openness of any betting on that event, the Commission's focus is on integrity directly related to betting, specifically where the outcome of an event has been influenced with the intention of benefiting through betting on it, or where inside information is used improperly or unfairly in placing a bet. For example, if an individual pays (directly or indirectly) another to deliberately lose a game with the intention of profiting through betting on that outcome (directly or indirectly), that is a matter of concern to the Commission. The Commission does not consider it to be part of its core role to promote event integrity more widely, but would expect sports governing bodies to do this. For example, if a team does not put out its best available players for one match simply in order to be better prepared for another match, this would not normally be a matter for the Commission even if bets had been placed on the outcome (unless inside information is used improperly or unfairly in placing a bet). Generally speaking, those betting are aware of such wider risks to sporting or event integrity.²

As it will be seen from the above extract, the onus of keeping sports event betting clean, according to the Commission, falls—fairly and squarely—on the shoulders of the sports governing bodies themselves. This is only logical as their purpose is to regulate their respective sports.

Again, according to the Commission, there is also a responsibility on the part of the 'punters' themselves to be aware of certain sporting situations in which, as mentioned above, there may not be a 'level playing field' in the sporting sense, which may affect the outcome of the sporting event on which bets have been placed. For example, in football, a club may field an inferior team for a less important match in order to rest the main players for a subsequent more important match. Whether or not this is a sporting thing to do is, of course, another matter, but this kind of thing does happen quite frequently.

Thus, Sports Betting is a very complex matter in order to keep everyone involved in it 'on side' and on the 'straight and narrow' and thus to keep the 'punters' happy.

Sports Betting in the last ten years or so has developed and changed quite fundamentally with the advent of modern technology—not least the omnipresence of the Internet and the rise of on-line Sports Betting. Therefore, those responsible for developing Sports Betting Policy and reflecting that Policy in the corresponding legal rules have quite a challenge on their hands. Not least because the World Wide Web has been described as the 'latter day wild west' on account of

² Section 1.4. See www.gamblingcommission.gov.uk/.../betting%20integrity%20policy%20position%20paper%20-....

the difficulty of policing and regulating it.³ This is particularly true of offshore Betting Companies offering gambling possibilities to punters in countries where either gambling—in any form—is illegal or very restricted. Take the United States of America, for example, where on-line sports gambling is illegal, although few ‘punters’ have ever been prosecuted—at least, to date—and things are in state of flux!

The US Government is generally relaxed, allowing individual ‘punters’ to place sports bets online. However, the Government tends to focus its resources on trying to stop the websites that are offering Sports Betting services to U.S. citizens, as well as the payment processors who facilitate deposits and payouts related to Sports Betting accounts.

The problem for US Law Enforcement Agencies is that there is no law outlawing Sports Betting on the Internet. Many US legal experts suggested invoking the Wire Act, which outlaws Sports Betting over the telephone, but, in the age of satellite and cable Internet connections, the legal lines of attack are more blurred than ever.

Eventually, the US Department of Justice prosecuted a few companies for offering Sports Betting services to U.S. citizens. They also threatened prosecution of companies selling advertisements for the same services, but Antigua filed suit against the US in the International Court of Justice in The Hague—and won! The US filed appeals against the ruling, but all their appeals were also unsuccessful.

State Governments around the US are now legalising casino gambling and many are pushing to legalise Sports Betting as well. As a result, it is becoming more difficult and, indeed, pointless for the US Federal Government to waste resources trying to police an activity that is already legal in most of the world.

This book covers the law and policy on Sports Betting in a variety of countries, whose economic and social development, history and culture are quite different, and a few salient comments now follow on a random—but representative—selection from the many countries covered in this Book, which illustrate the different policy approaches to Sports Betting and its legal regulation and effects.

In China, for example, one of the so-called ‘BRIC’ countries, whose economy goes from strength to strength and whose citizens bet on poker and mah-jong, there is a State Lottery, which provides a consistent source of revenue for the Chinese Government. The Chinese Laws and Regulations on Sports Betting are out of date and need reforming. For example, China should legalise some forms of Sports Betting, which are commonplace in the west, such as horse racing. Furthermore, there is a need for the investment of private capital in the betting industry, which would add much needed competition in this sector, and also, it is believed, could reduce the corruption and match-fixing which is prevalent and widespread in sport in China.

³ This is well borne out by the *WikiLeaks* website affair in which confidential and highly sensitive diplomatic cables, mainly from US diplomatic missions around the world, were leaked to and published by the world’s media during December 2010, despite the protestations of the US State Department and the US Attorney General.

On the other hand, in Singapore, legalised Sports Betting provides a significant source of funding to the Sports Industry, allowing the building of new sports facilities, which benefit the community, even though gambling in its various forms, including Sports Betting, is generally regarded as being detrimental to the moral fibre of this rather special and unique Island State.

Likewise, in Switzerland, the home of many International Sports Federations, including the IOC and FIFA, there seems to be an ambivalent attitude to Sports Lotteries and Betting, although the proceeds are used for financing so-called 'good causes' which includes sport. The Federal Lotteries and Commercial Betting Law, which also, incidentally, governs on-line betting, is under revision, which has been in process since 4 April, 2001, but is now temporarily suspended. But any resulting new Law, whenever it appears, is expected to continue the current practise of licensing lottery schemes and commercial betting, which are organised and carried on for the 'public benefit,' which, of course, includes the advancement of sporting activities and facilities in the 26 Swiss Cantons.

In India—another 'BRIC' country with impressive economic growth, despite the world-wide recession—betting on Horse Racing is legal, as it is considered that it is not a game of chance, based on the fact that 'punters' do their research on the horses and the jockeys taking part in the races before placing their bets. As such, it is, therefore, a game of skill.

As for Sports Betting in general, it is arguable that it is not illegal in India, because, most of the States comprising India do not prohibit it through their Legislatures, and also Betting on other sports is also a game of skill. Although the outcome is uncertain, the result of a sports event depends upon the skill of the players/participants. And, in football, for example, a 'punter'—as in Horse Racing—goes on 'form.' In other words a 'punter' studies the form of the players; their statistics in winning games or contributing to the winning of games; the playing conditions; their opponents and their form; and any and all other relevant factors that may well affect the outcome of the game. Of course, there is still an element of luck—chance—involved. So, is Sports Betting in India really illegal? An interesting question and answered in the negative by the contributor of the Chapter on India!

In Brazil—also a 'BRIC' country—the manipulation of sport through, for example, betting is a crime under Brazilian Law, as is gaming and betting generally. Among the exceptions are the Government Lottery and Horse Racing, in which bets can be placed at racecourses, authorised Jockey Club branches and accredited betting stations, by telephone and also online. As regards betting online generally, it is not entirely clear, under Brazilian Law, whether it falls under the general criminal prohibition against gaming and betting, which was enacted in 1946, when there was no Internet and such a medium at that time was inconceivable, and which speaks of a 'space,' which probably should be interpreted as meaning a 'physical' rather than a 'virtual' or 'cyber space.'

In the United Kingdom, there is a long tradition of gambling generally and betting on sport in particular; and gambling has been regulated for some three hundred years. Sports betting is now regulated by the Gambling Act of 2005. This is a highly technical, complicated, sophisticated and comprehensive piece of

legislation, which regulates the different kinds of betting, including ‘fixed odds’ and ‘pool’ betting, and many other aspects of gambling and betting and its consequences and effects. There is also a very complex system of licensing arrangements in relation to carrying on the business of betting in the United Kingdom. Likewise, someone who manufactures, supplies, installs or adapts betting software without the required licence commits a criminal offence under the Act; however, it should be noted that, network operators and internet service providers are specifically excluded from this Statutory provision. Interestingly, The Act also creates the specific offence of ‘cheating,’ which may consist of actual or attempted deception or interference in connection with the betting process or with a real or virtual game, race or other event or process. It is irrelevant whether the offender improves his chances of winning anything or, indeed, wins anything at all! These provisions, of course, are highly relevant to match-fixing and the unlawful manipulation of the outcomes/results of sporting events generally. To guard against this kind of behaviour, and in line with the general adage that ‘prevention is better than cure,’ in the summer of 2009, a Sports Betting Integrity Panel was set up, on the initiative of the UK Government, with very precise and comprehensive terms of reference.

Finally, in this mini survey of some of the countries covered in this Book, we take a brief look at the legal situation of Sports Betting in New Zealand. There, Sports Betting is conducted by the New Zealand Racing Board, which acts through The Totalisator Agency Board (TAB), which, in turn, liaises with the various National Sporting Organisations, in order to provide on- and off-course betting facilities for the general public. Horse racing was traditionally the most substantial gambling activity in New Zealand, but gradually lotteries, instant kiwi, gaming machines, casinos, dog racing and general Sports Betting have come into play and changed the gambling scene. The TAB is a commercial entity and operates through outlets, the Internet, Phonebet, Touch Tone and a SKYBET channel, devoted, as its name suggests, to betting. Gambling on Sport inevitably involves attempts to ‘throw’ sports events results, but reasonably effective anti-corruption measures exist in New Zealand to counteract these practices. Nowadays, the ubiquitous Internet and betting on sporting transactions outside New Zealand present serious challenges for the TAB to control.

This Book also includes a fascinating review of Sports Betting under European Union (EU) Law, which, as one might expect, would have something to say on the subject. In fact, as far as the EU is concerned, betting in all its forms, including Sports Betting, is considered to be an economic activity and, as such, is subject to EU law in general and EU Competition Law in particular. In a landmark case handed down by the European Court of Justice (ECJ), lotteries involve the provision of services—not goods—and, as such, are subject to the rules on the freedom of provision of services within the EU Single Market. The fact that the winnings are not secure does not make a lottery a non-economic activity.⁴

⁴ See *Her Majesty’s Customs and Excise v Gerhard Schindler and Jorg Schindler*, C-275/92, Judgement of 24 March, 1994, [1994] ECR I- 01039.

As regards the argument put forward in this case that gambling is dangerous and should be prohibited, the ECJ also rejected this contention, holding that, in contrast to other illegal activities, such as illegal drugs, the Policy of the Member States is generally not to prohibit gambling, but rather to monitor its availability to the general public.⁵ Furthermore, despite the ‘specificity of sport’ principle recognised by the EU and enshrined in the Lisbon Treaty,⁶ Sports Betting does not enjoy any special favours when it comes to applying the rules of the EU Single Free Market and Competition in relation to Betting generally.

With these brief and general introductory remarks, the reader, whose appetite, I hope, has been suitably whetted, is now invited to read on and enter the complex, fascinating and challenging world of Sports Betting and its Legal Regulation, as discussed and explained in the following Country Chapters of this most interesting and comprehensive Book on such a vital subject for the present and future well-being of the sporting world!

⁵ Ibid., para 32.

⁶ See Article 165(1) of the Treaty on the Functioning of the European Union (TFEU).

Part I
General Aspects

Chapter 2

The Revolution

Declan Hill

This book is about a revolution. It is a revolution without riots, protests or street demonstrations, but with all its peacefulness, it is a revolution that is fundamentally changing our society. You can see the revolution in the growth of casinos. A generation ago, the only casinos in North America were in Las Vegas or the Caribbean: now they dot the cities and countryside more frequently than power plants. You can see the revolution in the growth of poker. Ten years ago what television executive would have predicted that the sight of five flabby, middle-aged men playing cards would make for high-ratings in prime time? Now you cannot switch on European cable television at any time of day and not watch poker games. You can see the revolution as we watch football matches. Two years ago, few commentators mentioned the betting line on the game, now you can see the live odds on some games superimposed onto the screen. This book is about this revolution. It is about sports gambling and how it is changing our society.

The European government-controlled sports lotteries have been swept up in the revolution. I spoke to one of sports odds compilers for a Scandinavian national lottery. His company offers gamblers the ability to bet on sporting events around Europe. 'The growth in this field has been incredible,' he told me. 'Five years ago, we had 90 per cent of the sports betting market in this country. Now our sports market has grown four times as large, but our share of the market has shrunk to 25 per cent.'

It is the same for the FBI cops working the investigations of the Southern District of New York. It is the place to be if you are a cop in the United States. It is from there that Rudolph Giuliani began to eat into the power of the Five Families

Declan Hill—Investigative Journalist and Academic, Green College. He is the author of 'The Fix: Soccer & Organized Crime', Toronto (Canada) 2008.

D. Hill (✉)
Green College, University of Oxford, Oxford, UK

of the New York mob. It is from there that the Department of Justice investigations into Osama bin Laden were held. And it is from there that the FBI is cracking down on illegal Internet sports gambling in the United States. Special Agent David Velazquez is one of the lead investigators on the frontline against Internet gambling. ‘The power of this industry is mind-boggling,’ he told me. ‘We estimate that the size of the U.S. Internet sports betting industry – so that is including poker as well as sports – at \$100 billion a year.’

Velazquez helped put together a case against two Canadian executives who ran an Internet gambling payment company, Neteller, out of an offshore haven on the Isle of Man. The company finances listed in court documents show the power of the revolution. In 2000, Neteller Inc. was a small company that had gross revenues of \$289,000 in the United States; by 2006, when it had changed its corporate structure to Neteller PLC, that number had increased by over 58,000 per cent to \$169 million. Perhaps more pertinently, the amount processed by the company from all gambling transactions in the entire world had gone from the low millions in 2000 to more than \$10.6 billion by 2006. And Neteller was simply one of dozens of companies that helped gamblers pay their debts online.

This revolution is, for the most part, benign: a case of people innocently wagering on their favorite team. Even at UEFA headquarters in Nyon, it is possible to find soccer officials betting on games from their work computers. According to the optimists, it has made fixing of any sports event in the world next to impossible. But listening to the pessimists and the revolution in sports gambling has aided match-fixers in a clear and significant way. I belong, mostly, to the pessimists. In my research I have seen fixers using this revolution in sports gambling to bring sophisticated match corruption to European leagues that have never even dreamed of it.

There has always been corruption in sport. The ancient writer Pausanias described the site of the Olympics built in 776 B.C., outside the stadium was a whole collection of statues to the Gods. They were built with the fines levied on athletes who were caught cheating or fixing at the games. So corruption has had a long history in sport, back at least two-thousand eight-hundred years and that type of corruption will be with us for as long we continue to hold competitive sports. It is simply a part of human nature. However, we of this generation are facing something almost entirely new. It is a form of match-fixing as if someone has taken fixing and injected it with steroids. It is an utterly modern phenomenon and it will destroy sports as we know them.

Here is why. If we take the entire sports gambling world at 100%, most of the forms that Europeans are familiar with are relatively small. The Italian official sports lottery, popular as it is, is a tiny player. Factor in the mighty American market—Las Vegas—it too only has a small share of the total world market. Let us add in the offshore gambling sites in Costa Rica and the Caribbean. Actually, let us also add in the big British gambling companies like Ladbrokes, William Hill and Betfair. We will even throw in the European sports national lotteries, run mostly by governments, that are comparative midgets in terms of sports gambling, but the only way of legally gambling on sports in many European countries. Combine all

of those vastly different legal and illegal organizations and all their billions of Euro that they make in gross turn-over. Combine all of them into a large pot and you only have 30–40% of the total world sports gambling market.

The rest is the Asian market. It is huge. It dwarfs the European and North American markets. And most of it is illegal, run by the equivalent of Al Capone. This is a vast, powerful market. Because much of it is illegal it is difficult to give an accurate estimate of its total size, but the American journal *Foreign Policy* tried to do that in 2006 when it estimated the total size of the Asian gambling market at \$450 billion, for comparison, the size of the entire Asian pharmaceutical industry is roughly \$100 billion.

What is happening now is that where there were three, now there is one. All the worldwide gambling markets are merging into one vast pool of money and customers: and this market is becoming increasingly dominated by the large Asian market. This vast, illegal gambling market has corrupted sport across the continent of Asia. There is so much corruption in sport there that to an outsider the stories just seem extraordinary. Here are a few examples:

The Chinese soccer league is a national disgrace. Those are the words of Chinese Premier Hu Jintao, who declared in 2009 that there was so much match-fixing in their soccer league that it embarrassed China. We see the same circumstances in the soccer leagues across the region: Vietnam, Hong Kong, Indonesia, Cambodia, Laos, Thailand, Malaysia and Singapore have all faced similar scandals in their own leagues. In Malaysia, the corruption was so bad that a cabinet minister there estimated that seventy percent of the matches in their leagues were corrupted. Seventy percent! That means it was more usual for spectators to watch a corrupted match than a regularly played game.

The list of corruption stories in Asian sports goes on and on. The President of the Indonesian Football Association, the same people who recently tried an unsuccessful bid for the 2022 World Cup, was not just accused of corruption, he was not just charged with corruption, he was not just tried for corruption, but he was convicted and sentenced to 30 months in jail for corruption. However, at no point in that entire process did he ever resign or suspend himself from his post. In fact, he even continued to serve as President of the Indonesian FA and carried out its work from his prison cell. When he got out of prison he went on as the head of the Indonesian FA.

Possibly the best case that indicates the depth of corruption in Asian sport is the story of the South-East Asia Games of 2005. The South-East Asian Games are a kind of mini-Olympics of the region, with competitions in a range of athletics, team sports, etc. In November 2005, a few days before the tournament began, the Vietnamese sports executive in charge of the team held a press conference. At the conference, the Vietnamese journalists expressed concern that their team was not particularly strong and would not win a lot of medals. ‘Don’t worry,’ said the sports executive, ‘It is all fixed.’ He then explained how many medals each national team would get and for which sports. Most of the Vietnamese press corps showed that independence of spirit that makes Communist regimes bastions of freethinking and democracy and did not report the story. However, one lonely AFP

reporter at the press conference did write an article. It went out over the international wires where the Filipino journalists, who as a whole suffer from many problems but timidity is not one of them, splashed it all over their front pages. The Thai Prime Minister at the time, Thaksin Shinawatra, wearily responded when asked about these events at a press conference, that everyone knew that the SEA games were corrupt and they should think about abolishing the games. The Vietnamese government, faced with a barrage of public embarrassment, carefully reviewed the situation and realized what the problem was—the AFP reporter. So they pressured her to rescind her article. She apologized for ‘causing national embarrassment’ but did not withdraw the substance of her story.

At the end of the SEA Games in December 2005 two things happened. One, many Filipino journalists took great delight in pointing out that the medal tally of the games correlated exactly with the predictions of the Vietnamese sports executive. And two, eight Vietnamese soccer players were arrested for fixing matches with an international gambling ring.

Asian sports fans are not stupid. They know what is going on. They are not happy about all the corruption in their sports, in fact they are very angry. So what are they doing? They are turning their allegiances to teams in other leagues where they think the contests are honest. This is part of the reason why you cannot walk down a street in China and not see three people wearing Manchester United shirts. However, far more importantly, the punters in that vast illegal Asian gambling league are switching their bets from the local soccer leagues, with all the corruption in them, to European leagues. They are betting on all measures of matches from the big, prestigious Champions League, all the way down to tiny games in second division Women’s Soccer in the Netherlands.

There are a number of gambling companies who organize monitors to go to matches across Europe. Some of the companies are legal and function perfectly fairly, but some of them are illegal and have no problem torturing and murdering anyone who betrays them. Just ask the relatives of the Chinese ‘graduate students’—Kevin Zhen Xing Yang and Cici Xi Zhou. Their mutilated bodies were found in August 2008, in their flat in Newcastle, England, after they decided to make a little profit at the expenses of their gambling employers. When not torturing their former employees, these illegal gambling companies send people to the sidelines of these games where they stand with their mobile phones or laptops reporting back to the gambling market in Shanghai, or Johor Bahru, or Manila. They are not just reporting just on the Series A, or the English Premier League, or La Liga games. In July 2008, in Copenhagen, Denmark, there was the annual Tivoli Cup. The Tivoli Cup is a youth tournament for teams across Denmark aged 11–19. It is a big tournament, but most matches are played in parks and watched by a couple of dozen people, mostly parents. However, that year some of the coaches for the teams found four Chinese gambling monitors reporting on the games back to the gambling market. To repeat, the illegal gambling market in Asia is so powerful that it is profitable for them to monitor games of Danish teenagers playing in the park. To repeat, some of the people running this illegal gambling market are vicious and blood-thirsty enough to torture and kill two of their operatives for double-crossing them.

What are the Asian fixers doing? They too are not stupid and they are trying to do to European leagues what they so successfully did in their own leagues—corrupt them. Now with large amounts of money bet on small European games, the fixers are coming to Europe and forming alliances with local criminals. It is an ideal marriage. The Asian criminals get access to the teams and players; the European criminals get access to the lucrative Asian gambling market.

There has been a major European police investigation motivated, in part, by an earlier book that I wrote *The Fix*. The investigation was launched by the organized crime team of the Federal Police in Bochum, Germany. The detectives listened to thousands of hours of covertly recorded telephone conversations. They placed dozens of people under surveillance and worked tirelessly to try to uncover the true extent of the fixing network. After more than a year of this work, at exactly 6:24 a.m., on a cold November morning in 2009, hundreds of policemen across Europe moved in and arrested dozens of suspects. Over the next few days, they announced the preliminary findings of their work: two hundred suspicious matches across nine countries, and one hundred different players, referees, coaches, league officials, and gangsters were suspected of being involved. Over the ensuing weeks, the number of suspicious games and players involved climbed. It was a new type of globalized corruption that stretched across countries and continents: a fixer living in Germany, allegedly controlled players living in Switzerland, Turkey or Greece, defrauding the illegal gambling markets in Hong Kong and Malaysia, with the help of assistants in London and Holland.

This book explores many of the issues arising from this revolution. It looks not just at corruption but many more of the legal and social aspects, decisions and choices that have framed the debates around the growth of sports gambling. It is a revolution that will be with our societies for a long time, it is worth reading this book to thoroughly understand it.

Chapter 3

Betting and the Integrity of Sport

David Forrest

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3.1 Background

Most of the sports popular in the world today emerged and developed in the eighteenth and nineteenth centuries. Very quickly they became closely linked with wagering on the outcome of contests. Indeed, the rules of two leading sports, cricket and golf, were codified for the first time, in each case in 1774, by betting interests concerned that disputes on pay-outs should not arise because of ambiguity

David Forrest—Professor of Economics, Centre for the Study of Gambling.

D. Forrest (✉)
Centre for the Study of Gambling, Salford Business School,
University of Salford, Salford, UK

about how events should be conducted (Munting 1996). From then until now, betting has been a pervasive influence on sport. For example, betting companies have become a dominant source of sponsorship in English Premier League football and the famous shirts of Real Madrid are now adorned with the logo of a bookmaker.

All this is unsurprising. Sport provides the product to which gambling relates and sport itself becomes more popular when those following it can add to the excitement from a game by taking a financial stake in its outcome. Sports and bookmakers might then be thought to be natural commercial partners: contemporary sponsorship arrangements clearly have the potential to be advantageous to both sectors. However, in practice, in the past and now, sports governing bodies have, more often than not, displayed antagonism towards betting. The reason is that, from the earliest years of organised sport, they have feared manipulation of contests by those who can then profit from betting on outcomes which are supposed to be uncertain.

Their fears have always been justified to some extent. Fixing of cricket in nineteenth century England was widespread: professional matches were 'affairs of bettings and hedgings and cheatings' (Mitford 1832). Baseball, which subsequently displaced cricket as the dominant sport in the United States, soon encountered similar problems. A magazine article as early as 1874 claimed that 'There is no sport now in vogue in which so much fraud prevails as in baseball. Any professional team will throw a game if there is money' (cited in Cook 2005). Fixing has even contaminated the very highest level of competition in these two sports, for example the World Series of Baseball in 1920 and the South Africa–England cricket series in 2000. Of course, other sports have experienced similar scandals, as, for example, in horse racing, football, tennis and snooker.

Manipulation of sports events for the sake of betting gain has therefore been a problem since modern sports first emerged. And yet the level of anxiety has clearly increased in just the last few years. Sports governing bodies have commissioned major reports on the issues involved (Forrest et al. 2008a, Gunn and Rees 2008). The International Olympic Committee has introduced a requirement for competitors, from the Beijing Games on, to sign a declaration that they will not be involved in betting. The organisation heading football in Europe (UEFA) has introduced a sophisticated system for monitoring betting markets on matches under its or its members' jurisdiction. The United Kingdom government has set out formal policy requiring sports to defend themselves against fixers (Department for Culture, Media and Sports 2010). All this interest and activity reflects a consensus that the potential for corruption has reached a new plane. This chapter asks whether this consensus is likely to be valid, why attempts to manipulate sports events might have become more common and whether legislators, regulators and the sports and betting industries themselves are in a position to be able to do anything to contain the level of malpractice.

3.2 Fixing as a Crime

To organise our thoughts in trying to answer these questions, we adopt a theoretical framework suggested by Forrest and Simmons 2003 and adapted from the economic model of crime (Erlisch 1996). But in what sense is match fixing a crime?

In a general and important sense, manipulation of sport could be regarded as a *cultural crime*. Society loses something when sport is violated because its values are supposed to represent ideals and its followers are often indulging in dreams. The magic may be lost if events turn out to be a sham.

More prosaically, fixing can be regarded as a *financial crime*. Betting markets are essentially financial markets where participants trade state-contingent assets (for example, a bookmaker sells a betting slip that promises that he will pay the bearer fifty euros if a named outcome occurs and zero otherwise). Traders, i.e. bookmakers or bettors, decide whether to undertake such a transaction based on the information set available to them. If fixing takes place, they have been misled, for example the betting slip has a positive value in their judgement but, in reality, it is worth nothing if the athletes have already entered into an arrangement to bring about a contrary outcome. This is clearly fraud in which money is expropriated from bookmakers and/or other bettors to the instigators of the fix. It is criminal in the same way as an arsonist is guilty of a crime when he burns down his house after first insuring it. Legislation is normally adequate for police and judicial systems to make appropriate responses if evidence is found that athletes have in fact agreed to a fix: the instigators and the athletes have entered into a conspiracy to defraud.

A more ambiguous situation arises where athletes or others involved in sport act on or sell privileged information that will enable betting gain. For example, a coach may know that a tennis player is carrying an injury and this information may then be used to make gains at the expense of bookmakers and/or other bettors. This is a form of *insider trading* and would be regarded as criminal in many jurisdictions if it took place in financial markets other than betting (for example, the stock market). In the world of sport it may commonly be regarded as less serious than fixing to the extent that events on the field unfold as they would have done anyway. But there are still financial losers, making it a candidate for treatment as a financial crime. Further, detection of fixing itself may be compromised if insider trading is tolerated. For example, a coach 'rests' key players in a minor fixture; there are suspicious betting patterns ahead of his team losing; he justifies to investigators that he has rested players to make them less tired for the next fixture and news of this must have leaked out; it is impossible for the investigators to know if the story in fact masks a conspiracy to field a weak team solely to enable betting gain. For these reasons, both legislation and the rules of sports are likely to require greater clarity over whether insider trading is potentially a criminal/disciplinary offence if integrity risks are properly to be addressed.

Let us return to fixing proper. An athlete may of course fix for direct personal betting gain or else he may be paid by a bookmaker (as in the South African

cricket case, cited above, where the paymaster was an Indian illegal bookmaker). However, in most contemporary high profile cases, the instigator of the crime has been a syndicate of bettors (sometimes linked to organised crime). Those who carry out the crime in return for payment from the syndicate may be players, referees or coaches. By way of illustration, a footballer may be paid to get himself sent off (there are active markets on the number of cards in a match), a basketball referee might, as actually happened in the National Basketball Association, be paid to be lenient on allowing points to stand (there is an active market on total points scored in a match) or a coach might be paid to bring on weak players (in some American sports, betting is usually on margins of victory and, once a team has a safe lead, it can afford to slacken off).

What determines whether an athlete (or a referee or a coach) will accept such propositions from betting syndicates? Contemporary economic theory usually analyses choice in any sphere of life from the starting point of assuming that the decision will depend on the individual comparing *expected benefit* (in our case, from agreeing to fix) with *expected cost*.

The expected benefit (B) for a participant agreeing to fix is pecuniary and equal to the size of the bribe multiplied by the probability that the fix will be successful (the payment is likely to be paid conditional on success; not all fixes will be successful because the athlete cannot control what other players and officials do).

Forrest and Simmons 2003 proposed that the expected cost from the athlete deciding to take part in the crime would have three components. First, the expected pecuniary cost, F (for example, loss of prize money through ‘throwing’ a game or loss of future earnings from a suspension from the sport, the latter weighted of course by the probability of being caught). Second, the value the athlete places on any loss of glory and reputation (R) associated with the underperformance a fix normally requires. Third, the value to the athlete of the moral unease and shame he or she may experience from betraying the sport (C). All these will, of course, vary from player to player and determine which and how many players find it worthwhile to accept bribes: economic theory presumes that the opportunity to commit the crime will be accepted by any individual for whom expected benefit (B) exceeds expected cost ($F + R + C$).

There is nothing startling or profound in the way the model represents the world; but it provides a useful framework for understanding where integrity risks are highest and how they vary over time. Take each component in turn.

Often B is likely to be higher in individual than in team sports because the money available from the syndicate can all be offered to one player rather than several and because that individual has a strong chance of being able to succeed in generating the required outcome. In a general sense this helps us to understand why disciplines like boxing have experienced scandals more frequently than a complex, interactive sport like football where it is hard for particular players to manipulate outcomes.

F will reflect athletes’ wage levels. Where these are high, as in the elite levels of many contemporary sports, few athletes are likely to agree to fix because the loss of income from a possible lifetime ban (if caught) will be dominant in the

calculus. But where they are low, many athletes may find it worthwhile. In a general sense this helps us to understand why the sector with the largest number of scandals in its recent history is American college sport. Here, athletes are paid nothing at all and yet betting interest (and therefore potential bribes) is sometimes high. Another risk factor for college sport is that, at least in American football and basketball, the dominant mode of betting is on whether the favourite will or will not win by a specified minimum number of points. The value of R is likely to be low for those in a favoured team that fails to ‘beat the spread,’ so long as it still wins and its championship chances are therefore enhanced. Accepting bribes to hold back on winning margin is known as ‘point shaving’ and several criminal prosecutions have proven the reality of this species of manipulation. Wolfers 2005 employed forensic statistics to suggest that the practice is fairly widespread in college basketball.

C is the cost from feeling guilt and shame because of participation in cheating. Corruption appears likely to be a greater risk in settings where players have a grievance and can therefore convince themselves that it is acceptable not to play their best. Some of the most prominent cases of fixing have been associated with just this situation. From the case of fixing by members of the Louisville Grays baseball team in 1877 to the current alleged manipulation in Chinese football, a common feature has been clubs falling behind with paying the players’ wages.

The examples above illustrate that the economic model of crime, applied to fixing, can help us to understand where risks of occurrence may be highest. But it can also help to understand why variation occurs over time. Here, we are interested in whether and how far the risk to sport integrity may have grown since the Millennium.

3.3 The Contemporary Betting Market

The sports betting environment has been transformed over the last decade, principally by technological developments. Five major changes may be identified in the development of sports betting over this time period

3.3.1 Growth in Liquidity

Spectacular growth in the amounts wagered on sports events has marked the last ten years. Probably a major factor here is the increasing availability of even relatively minor sports events on television or via the internet. This stimulates interest as part of the thrill of betting lies in following an event in which the bettor has effectively become a stakeholder.

Of course, it is well known that amounts staked on events such as English Premier League football or cricket internationals are huge, particularly in Asia; but it is probably of more concern that there are sufficiently liquid markets on matches