

The Need for a More Robust Legal Framework to Curb the Rise in Violence against Game Officials

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Abstract—The dramatic rise in violence against game officials has affected all levels of sports including recreational, amateur, and professional sports. One way to combat this rise in violence is through the creation of laws specifically aimed at preventing and punishing this kind of violence. This paper will use related legal cases as a starting point to explore possible ways of better protecting the safety of game officials. It will do this by looking at relevant cases, related legal issues, and two specific ways of reducing violence against game officials. In closing, it will be argued that there needs to be a more robust legal approach with emphasis on criminal and civil penalties for assault and battery, and a more comprehensive social approach with emphasis on raising social awareness on the need to protect game officials from violence.

Keywords—Violence, game officials, legal issues, protection.

I. INTRODUCTION

THE dramatic rise of violence against game officials, as epitomized by the fatal shooting of an Argentine referee in February 2016 by an upset football player [1], has become a major concern at all levels of sports. In the United States, the issue of sports violence has traditionally been addressed through disciplinary actions such as suspensions of sports players for any behavior that threatens the safety of game officials. However, these methods have proven to be ineffective in curbing the rising level of violence against game officials. It has become such a serious concern that many states have passed laws in an attempt to protect game officials against violence [2]. This paper will argue that this trend to expand and strengthen the legal framework to prosecute sports violence needs to be accelerated in order to curb sports violence. It will look at the relationship between sport and violence, the reasons for the current rise in violence, specific instances of sports violence, related legal issues, and the steps which need to be taken to better protect game officials against violence.

II. THE RELATIONSHIP BETWEEN VIOLENCE AND SPORTS

The relationship between sports and violence can be traced back to the very birth of organized sports in society. There is a plethora of theories on the relationship between violence and sports, but most current theories tend to connect sports to aggression and some form of combat. In the drive-discharge theory, “war and sports are substitutes in the release of aggression” [3]. Others [4] argue that sports allow humans to

develop survival skills such as fighting. While others [5] argue that sports evolved out of the need to develop skills for warfare. Of course, other researchers such as Ashe, Carroll, Guttman, Huizinga, McComb, Roberts, Arth, and Bush, Sansone, and Szymanski (as cited in [4]) focus on the social and cultural aspects of play rather than the violent aspects mentioned above. Whatever the origins of sports were, many sports can trace their beginnings back to violent activities involving combat, and one of the defining characteristics of these sports is that once the method of combat is no longer used in warfare, the activity often became a sport [6]. A typical example of a form of combat that has evolved into a sport is fencing. In addition, the history of sports is filled with examples of this relationship between violence and sports. For example, boxing in the Ancient Olympics evolved to point where it was so violent that fighters sometime fought until someone died. The most infamous case being that of the pankratiast Arrichion whose winning move resulted in his own death [7]. The Romans took violence in sport to a completely new level with the introduction of the gladiators, men who fought to the death for public entertainment [8]. In addition, in Rome, violence in sport was not limited to the just the athletes but involved the spectators, too. Some claim (Grout, n.d.) that in the Nika Riots, the city of Rome was partially destroyed and the emperor overthrown by rioting fans of the games (the blue and green fractions) [9]. Modern sports are also often closely intertwined with violence. For instance, American football traces its origins back to the ‘Bloody Monday’ hazing rituals of Harvard freshmen [10], and the game became so violent that President Theodore Roosevelt threatened to ban the sport altogether [10]. According to Horrow, “between 1933 and 1976, organized football claimed the lives of 1,198 participants” [11] although it should be noted that many of these deaths were not the result of malicious acts. Finally, no act better epitomizes the relationship between violence and sports than the ‘beanball’, a baseball pitch deliberately thrown at the batter’s head. With the incredibly short reaction time involved of less than half a second to respond, the batter is essentially “at the mercy of the pitcher” as cited in [12].

III. REASONS FOR THE CURRENT RISE IN SPORTS VIOLENCE

There are several possible reasons for the current rise in sport violence. One of them is the underlying premise that violence in an integral part of contact sports. According to Horrow, some degree on violent contact is considered a necessary and desired part of many popular sports [11]. He cites the case of ice hockey and how the ability to use excessive violence to intimidate other players is a commonly

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understood requirement for professional ice hockey players. That violence is considered a necessary component of contact sports such as American football can be seen in the quote from Jean Fuggett, former tight end for the Dallas Cowboys, where he states that “[t]he game is legalized violence. . . . I can go into a game and just literally try to break somebody’s neck. . . . It happens all the time” as cited in [13]. Another reason may be the media tendency to glorify violence in sports. This might be due in part because according to Bryant et al., many male fans often show a preference for violent sports [14]. Related to the media influence, another reason may be the effects that violence sports have on the norms and values of society as documented in both children (Yeager, 1976) and adults (Smith, 1983) as cited in [13]. Children, in particular, appear to be easily influenced by these values, especially since many children look up to professional athletes as role models. Parents, in turn may mimic this behavior in an attempt to both impress their children and reinforce their role as parental role models. This may have been the case when “Thomas Junta, [...] beat Michael Costin to death in front of both men’s children after a disagreement between the two about violent play in their sons’ youth hockey game” [14]. It is clear example of how the cultural values of violent sports can have a tragic impact on society. Junta was eventually “found guilty of involuntary manslaughter and was sentenced to three to five years in prison as a first-time offender” [15]. The difficult the jury had in decided on whether on the verdict highlights the complex issues surrounding sports violence. Finally, according to Nielsen, it cannot be underscored enough how the sporting industry and sporting organizations have fought to protect their vested interest in maintaining the status quo of violent sports as big business [12]. A case in point is the recent movie, *Concussion*, which highlights the lengths the NFL has gone to in order to “conceal the dangers of head trauma ... even after agreeing to pay \$765 million to settle” [16] a lawsuit by NFL players.

IV. SPECIFIC INSTANCES OF SPORTS VIOLENCE AGAINST GAME OFFICIALS

Watching the news, one might wonder if we were living in the dark ages. For example, in 2013, a Brazilian referee was stabbed, beheaded, and drawn and quartered by angry fans [17]. It could be argued that his death was triggered by his own actions since he had stabbed a player in front of the fans, some of whom were actually related to the player, during a dispute over the game. However, he is not the only game official to be recently murdered during a game. In 2016, an Argentine referee was shot dead by a football player who was upset over being red carded and removed from the game. Unlike the Brazilian case, in no imaginable way can being kicked out of a game be a justifiable reason for murdering someone. His was not the only deliberate murder of referees. In 2012, a volunteer lines-man in Holland was beaten to death by “a group of teenage players [18]. This spate of deaths is not limited to only deliberate acts of murder, but has also been the result of acts of assault and battery, which have led to the death of several game officials. For instance, in 2014, a

Michigan referee at a recreational game died after being punched by a 36-year-old player. The player was eventually “charged with intent to do great bodily harm less than murder” [19], and ended up pleading guilty to involuntary manslaughter and “will receive 8 to 15 years in prison” [20]. Part of the reason that he received such a lengthy sentence was because he had fled the scene and that this was his second offense, following a similar case where he repeatedly beat another player in the head. It could be argued that the fact that he received such a lengthy sentence reflect the growing awareness of the seriousness of the problem in both society and the judicial branch. In fact, due to this very case, the Michigan Senate Judiciary Committee passed two new laws directly aimed at making such assaults a felony offense [21]. Assaults leading to death are not limited to the United States. In 2016, a Mexican referee died after being punched by a player in an amateur game. Again, the player probably did not intend to murder the referee, but this was a clear case of assault leading to manslaughter [22]. In addition, in 2016, another Mexican referee died after being head-butted by a player [23]. Even with the legislative changes being made, these cases clearly show the need for a more robust legal framework for prosecuting sport violence against game officials both in the United States and internationally.

V. SPORT VIOLENCE AND LEGISLATION

Legislative on sports violence in the United States has been marked by ambiguities and lack of Federal oversight. One of the first attempts to address sports violence through legislation was put forward by Representative Ronald Mottle (D-Ohio). The bill, the Sports Violence Act of 1980, or H.R. 7903, stipulated that

[a] player in a professional sports event who knowingly uses excessive physical force and thereby causes a risk of significant bodily injury to another person involved in that event shall be fined not more than \$5000 or imprisoned not more than one year or both [11].

However, the sporting industry was able to defeat the bill through extensive lobbying [11]. A second attempt at legislation along similar lines was introduced by Representative Thomas. A. Daschle of South Dakota in 1983. His bill, The Sports Violence Arbitration Act “proposed an arbitration board [or ‘sports court’] to settle grievances between players resulting from the use of excessive violence” [12]. Nielsen argues that the bill and all other attempts at legislation have failed to pass largely in part because society does not see sports violence as requiring legislation at the Federal level. Rather, the general consensus seems to be that players should use revenge tactics as a way to deal with such attacks, and legislators should address these issues at the local level [12]. As was stated earlier, this approach has led to inconsistencies and ambiguities in the legal framework currently being used to address sports violence. Fortunately, recently, there has been a growing movement to address this issue due to the rise in violence against game officials. As briefly mentioned in the introduction, in the United States, “more than 20 states have passed criminal laws regarding

assault of a sports official” [24]. Traditionally, the issue has been addressed through disciplinary actions such as suspensions of sports players for any behavior that threatens the safety of game officials. An example of the ineffectiveness of such disciplinary actions and the legal complexities surrounding violence against game officials can be seen in the case *Mayo v. West Virginia Secondary Schools Activities Commission*. In the lawsuit, O. J. Mayo sought an injunction of an extended suspension, which had resulted in part from “having physical contact with a referee” [25]. This case illustrates how the competing interests of stakeholders such as players and their perceived rights can sometime clash with the need to protect game officials from violence.

VI. CASE STUDY: MAYO V. WEST VIRGINIA SECONDARY SCHOOLS ACTIVITIES COMMISSION

According to the article, Mayo received a two-week suspension for violating “an SSAC rule prohibiting players from laying hands on game officials” [25]. In response to litigation on Mayo’s part, the West Virginia Circuit Court passed several rulings, which were later overturned by the West Virginia Supreme Court. The final outcome was that “in-game conduct of *any* participant” [25] is generally considered to be outside the domain of the court or grounds for litigation unless it involves potential criminal acts. In addition, the West Virginia Supreme Court upheld prior rulings, which found “that participation in interscholastic athletics [...] is not a constitutionally protected [right]” [25]. In summary, the West Virginia Supreme Court upheld the right of sporting bodies to establish and impose penalties for in-game conduct, which might threaten the safety of game officials. As such, it can be argued, the law correctly places the safety of stakeholders over the perceived rights of players. However, since more needs to be done to better protect game officials from violence, this paper will provide suggestions on how this might be achieved.

VII. LEGAL IMPLICATIONS OF THE MAYO CASE

First, due to the increasingly litigious nature of American culture [26], disputes such as Mayo’s are increasingly ending up in court. One way to counter this trend in which players are quick to sue when they feel they have been unfairly punished, might be to have all players waive their right to sue over game officials’ decisions in civil court as one of the conditions for being able to participate in an event. Conversely, players should also be made aware that assaulting a game official is both a crime and a constitute tort. As such, players who are “accused of assault or battery [...] can be subjected to *both* civil and criminal prosecutions” [27]. In order for us to better protect the safety of game officials, it is also important for us to understand the difference between assault and battery. According to legal expert Curt Hamakawa, “assault is an attempt or threat to cause offensive contact with another person, coupled with the victim’s reasonable apprehension of immediate bodily harm” [27]. Whereas, assault does not necessarily imply physical contact, battery implies “otherwise unwelcome or unpermitted touching” [27]. Although Mayo

was not accused of assault or battery, under a strict interpretation of the law, his conduct could be construed as battery based upon the legal definition of the term. By using a two-pronged approach, which limits legal action on the part of the players while raising awareness of the legal risks of committing acts of violence against game officials, it might be possible to reduce the current levels of violence against game officials in cases as such Mayo’s.

VIII. PLAYERS ATTITUDES AS REFLECTED IN THE MAYO’S CASE.

Second, due to changing attitudes in society and sports in general, players feel more entitled to question game officials’ decisions. This can be seen in Mayo’s conduct both during and after the game. Mayo first took exception to being ejected for two technical fouls during the game. He did this by trying to interfere with the game official’s ability to enforce this decision by making contact with the official “as the game official walked over to report the second technical foul” [25]. After receiving a further suspension based upon this contact with a game official, he insisted on taking the matter to court. On top of that, even though the West Virginia Secondary Schools Activities Commission (SSAC) reduced the scope of penalties he had incurred through his behavior, he rejected those compromises and proceeded with the lawsuit. It could be concluded that all these actions point to a player who feels his perceived rights outweigh the rights of all the other parties involved, and it could be argued that this attitude of entitlement is another trend, which has contributed to the rise in violence toward game officials.

IX. WEAKNESSES WITH CURRENT APPROACHES

The need for a more robust legal framework for curbing violence against game officials can be seen in the inherent weaknesses of recommendations based upon sporting organizations such as the International Society of Sport Psychology. For example, the ISSP in its Position Stand [29] recommends “[making] fundamental penalty revisions so that rule-violating behavior results in punishments that have greater punitive value than potential reinforcement” [29]. They appear to argue that this approach could be used to encourage less violent acts in sports and thus counter some of the forces at play discussed previously such as removing the use of dangerous sporting techniques like the ‘beanball’ pitch. However, the inherent weakness of this approach is that it does not do enough to reinforce the serious nature of these acts as crimes of assault and battery but rather continues to view them as a breach of the rules of the game, not a criminal act. The ISSP further recommends that the media not ‘highlight’ violent incidents. This recommendation is probably the most difficult to implement due to the nature of the media and the public love of and interested in such conflict. This approach would require a great amount of evidence-based research to show a conclusive link between violence in sports and violence in society. It could be argued that this recommendation is not particularly realistic or reflective of the

economics underlying sports as big business.

X. TWO POSSIBLE SOLUTIONS FOR CURBING VIOLENCE AGAINST GAME OFFICIALS

One way to counter the rise in violence against game officials might be to conduct social awareness campaigns similar to the Football Association (FA) Respect Campaign, which is a program run at all levels of grassroots football in the United Kingdoms. The program focuses on improving stakeholders' behavior through a four-step approach: clear codes of conduct for all stakeholders "with appropriate and clear sanctions;" spectator areas "to keep spectators away from the sidelines;" [28] team captains assuming more "responsibility for managing their players' behavior;" and expanded referees training programs. Based upon research funded by FA programs like the Respect Campaign, social awareness campaigns can play an important role in reducing violence toward game officials. However, although these measures appear to have helped alleviate some of the issues surrounding sports violence, they do address the need for a consistent and enforceable legal framework by which to curb violence against game officials. It could be argued that the only means by which establish a nation-wide legal framework on this issue would be by passing Federal laws, which punish acts of violence in sports both between players, fans, and game officials with the same legal punishments and fines as if these acts were committed outside the world of sports.

XI. CONCLUSION

In closing, this paper has explored the relationship between sports and violence. It has done this by looking at the role of violence in the birth of sports and how this relationship continues to influence sports today. It has also done this by exploring some of the factors and forces which have led to the current rise in violence against game officials. It has provided specific examples of these acts to show how horrific the situation has become. It has shown how legislators have tried to curb this rise but have been largely thwarted by the sport industry, sporting officials, and indifference on the part of society. It has looked at specific case to show the legal complexities involved including the need to balance the right of players with the rights of game officials. And finally, it has made several recommendations on how to curb this rise in violence against game officials with two central recommendations: A social approach with an emphasis on social awareness programs, which promote better behavior; and a legal approach with an emphasis on reducing the risk of litigation and stressing the criminal and civil penalties for assault and battery. Through addressing some of the trends that have led to an increase in violence against game officials, hopefully, we can better provide for their safety because ultimately, no game official should ever have to fear for their lives or safety when refereeing a game.

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