

## Critical overview of Report of the Supreme Court Committee on Reforms in Cricket

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### Abstract

This article aims at highlighting the salient features of the Report of the Supreme Court Committee on Reforms in Cricket. This article starts by explaining the need of constitution of this committee and underpins the legal issues which the committee debated on. Being a descriptive piece of writing, this article indicates the legality of every issue taken up by the committee, and provided with plausible solutions to these issues.

**Keywords:** Cricket; Sports Law; Lodha Committee.

### Introduction

The Board of Control for Cricket in India (BCCI) is the premier governing body for cricket in India. In 1928 the board was formed and was registered under the Tamil Nadu Societies Registration Act [1]. The State Cricket Associations are affiliated to BCCI and the state associations select their representatives who in turn elect the BCCI officials [2]. In 2008, BCCI organised the biggest sporting extravaganza in the history of Indian Sports called the Indian Premier League (IPL) [3]. Although the sport got a big boost because of the revenues IPL was generating, but it was mired in controversy by 2013. The Indian Cricket was jolted by spot fixing scandals during the IPL. The Supreme Court appointed a 3 member committee under the chairmanship of Justice Mukul Mudgal to investigate the allegations on spot fixing.<sup>4</sup> This review will identify the legal issues identified in the said report and trace out the proposed solution to these issues. In addition to that a critical analysis of these solutions will be highlighted in this paper. Further this paper will evaluate the feasibility of some of these solutions.

1. The Committee on IPL Probe laid down the following in its report: enumerating some facts which give rise to some legal concerns
  - The allegations of betting and passing of information against Mr. Gurnath Meiyappan (the Son-in-Law of BCCI president N Srinivasan) stand proved.
  - More investigation is needed against Rajasthan Royals owner Mr. Raj Kundra, who is facing charges of betting and fixing the match.
  - The allegations of spot-fixing and match fixing against five players - Sreesanth, Ankeet Chavan, Ajit Chandila, Amit Singh and Siddharth Trivedi - on the basis of evidence provided by Delhi Police were facing criminal trial and adequate punishment has been imposed upon them by the BCCI.
  - Constitution of IPL Governing Council, the two teams Chennai Super Kings and Rajasthan Royals may be suspended.
  - As per the Clause 11.3 of the IPL franchise agreement in any case, if the team, official, team owner or anyone else associated with the team tries to bring in bad image on the league, then the team can be suspended immediately [5].

## 2. What led to the formation of Lodha Panel?

Based on the investigated reports the Supreme Court formed the Lodha Panel to reform BCCI. Report of the Supreme Court Committee on Reforms in Cricket was prepared in accordance with the judgment and order of the Hon'ble Supreme Court dated 22nd January 2015.

- The major work of the Committee has been to:
  - Determine the punishment to be awarded to Mr.Gurunath Meiyappan, Mr.Raj Kundra and their Franchises
  - Examine the role of Mr.Sundar Raman, and if found guilty, impose a suitable punishment; and
  - Recommend reforms in the practices and procedures of the BCCI and also amendments in the Memorandum of Association and Rules & Regulations [6].
- Furthermore the Committee had to specifically look into the following matters [7]:
  - Amendments considered necessary to the memorandum of association of the BCCI and the prevalent rules and regulations for streamlining the conduct of elections to different posts/officers in the BCCI including conditions of eligibility and disqualifications, if any, for candidates wanting to contest the election for such posts including the office of the President of the BCCI.
  - Amendments to the memorandum of association, and rules and regulation considered necessary to provide a mechanism for resolving conflict of interest should such a conflict arise despite Rule 6.2.4 prohibiting creation or holding of any commercial interest by the administrators, with particular reference to persons, who by virtue of their proficiency in the game of Cricket, were to necessarily play some role as Coaches, Managers, Commentators etc.
  - Amendment, if any, to the Memorandum of Association and the Rules and Regulations of BCCI to carry out the recommendations of the Probe Committee headed by Justice Mudgal, subject to such recommendations being found acceptable by the newly appointed Committee.
  - Any other recommendation with or without suitable amendment of the relevant Rules and Regulations, which the Committee may consider necessary to make with a view to preventing sporting frauds, conflict of interests, streamlining the working of BCCI to make it more responsive to the expectations of the public at large and to bring transparency in practices and procedures followed by BCCI."

- The committee had prepared a questionnaire consisting of 135 questions grouped under eight different heads of concern areas for cricket administration. The committee had taken into considerations various reports from media , documentaries , published material. It also took into consideration of the comparative analysis of management of other sports bodies over the world. The 3 Member Probe Committee headed by Justice Mukul Mudgal earlier entrusted with the task of examining the allegations of betting and spot fixing made several recommendations to prevent and to effectively deal with betting and match/spot-fixing. This Committee considered the said recommendations and, wherever found acceptable and feasible, incorporated them in the Report.

## 3. Salient Features of the Report [8]

- Bringing the BCCI under the Right to Information Act.
- Separate governing bodies for BCCI and IPL.
- Governance will be separated from the management of BCCI.
- Two nominees of IPL teams will be in IPL governing council.
- A robust agent registration system to safeguard players, agents will have to be cleared by an anti-corruption unit.
- Lodha panel recommends legalisation of betting.
- A player's association introduced to give players a voice.
- Every state should be full member of the BCCI with the right to vote.
- One association of each state will be a full member and have the right to vote. This would mean founder members NCC (Kolkata) and CCI (Mumbai) could lose voting rights.
- Relegation of Railways, Services and Universities as associate members. They will also lose voting rights.
- A CAG officer will be part of the BCCI auditors.
- A former chief justice or high court judge will be ethics officer at BCCI.
- An apex council for the BCCI must comprise of nine members, including five elected members, two representatives of players association and a woman.
- Minister or government officials cannot hold BCCI posts.
- BCCI officials must give up state unit post on election to the committee

#### 4. Recommendations [9]

- Regarding The Structure and Constitution of BCCI

##### Problems

The BCCI at the moment consists of 30 Full Members some of whom do not field teams, while others do not represent any territory. Twenty States and one Union Territory are included and ten States and six Union Territories remain either excluded or disenfranchised. One old State (Bihar) and two new states (Chhattisgarh and Uttarakhand) and six North-Eastern States (Sikkim, Manipur, Meghalaya, Nagaland, Arunachal Pradesh and Mizoram) are unrepresented on the Board. Similarly Maharashtra and Gujarat have 3 Full Members, each representing parts of their respective States. In case of Services Sports Control Board, the Railways Sport Promotion Board and All India Universities territorial divisions were not the criteria to determine membership of the BCCI. Both the National Cricket Club (NCC) at Kolkata and the Cricket Club of India (CCI) at Mumbai were more in the nature of recreation clubs. They neither fielded teams for tournaments nor had a geographical basis for being Full Members of the BCCI. Except for Delhi, none of the other six Union Territories are Full Members of the BCCI. Pondicherry has a sub judice matter in Madras High Court with regard to membership status in BCCI. The Regulations of the BCCI only speak of three categories of Members – Full, Associate and Affiliate. However there is a list of six “Future Members”, a category that does not have a legal basis as there is no certainty of getting a membership in BCCI. BCCI has absolute power in addition and removal of associations, which is arbitrary.

##### Solutions

1. Democratic norms require each State should have equal representation, and therefore the Committee proposed the policy of ‘One State – One Member – One Vote’.
2. As far as disbursement of funds by BCCI for cricket development, it need not be uniform, but can depend on the need, infrastructure and other relevant criteria as determined by BCCI.
3. The Committee proposed that it should be left to the BCCI to decide which of the 3 associations from Gujarat and Maharashtra would be taken to represent the entire State, and the remaining 2 associations from each State would become Associate Members, who would however continue to field teams for competitions but cannot cast votes.

4. The Committee recommends Services that Railways and Universities be accorded the status of Associate Member so that their views may still be considered while they will not have voting rights.
  5. Recreational clubs like Cricket Club of India and National Cricket Club, which do not field cricket teams and have no cause to be treated as Full Members.
  6. Pondicherry cannot be granted a full membership as the matter is sub judice but BCCI can allow them to be associate member so that they can participate in tournaments.
  7. The categories of Affiliate and Future Members are therefore to be removed, and only Full Members and Associate Members will remain, the former with voting rights and the latter without.
- Indian Premier League and the surrounding controversies

##### Problems

IPL is the single largest revenue generator for the BCCI. However, the governance of the IPL has been left to a Committee of twelve which denies any role to the franchisee companies who are responsible for fostering competition and making revenue. Once again, there is no independent voice, with ten of the members representing the Full Members of BCCI and two being former cricketers handpicked by the Board.

##### Solution

1. The IPL Governing Council needs to be reconstituted with more autonomy, comprising not only of representatives of the Full Members, but also of Franchisees, Players and an independent auditor.
2. The Committee proposed a Governing Council with only nine members, comprising of three ex-officio members (the Secretary, the Treasurer and the CEO of BCCI), two representatives of the members of BCCI to be elected by the General Body, two nominees of the Franchisees, one nominee being the C&AG’s Councillor on the Apex Council and one being a nominee of the Players’ Association.
3. One of the two representatives of the Members of BCCI elected by the General Body shall be the Chairperson of the Governing Council.
4. The nominees of the Franchisees shall rotate on an annual basis and no Franchisee shall be represented again until all others have had a turn.

5. This Committee recommended that the Committees / Commissions to be appointed under the IPL Regulations (Anti Corruption Code, Code of Conduct, Operational Rules, etc.,) ought to consist of members selected by a panel of the Ombudsman, the Ethics Officer and the CEO which shall be presided over by the Ombudsman.
  6. The BCCI should ensure that at least 15 days gap should be provided between the IPL season and the national calendar.
- The Ombudsman

### Problem

The contract entered into between the State Associations on the one hand and the BCCI on the other has rarely been equitable and balanced, with the latter exercising its hegemony over the constituents. In cases of disputes between State Board and BCCI, the BCCI becomes the judge in its own cause. Arbitration between the parties is not possible as BCCI has a hegemony over state boards. BCCI controls the finances and thus the independence of State Boards.

### Solution

1. To expedite dispute resolution process the Committee recommended the appointment of a retired judge of the Supreme Court or a former Chief Justice of a High Court as the Ombudsman of the BCCI, to be appointed once a year at the Annual General Meeting.
  2. This Ombudsman shall, either on a reference by the Apex Council or on a complaint by a Member/ Franchisee/ Zone/ Players' Association/ Player/ Team Official/ Administrator or suo motu (on its own), investigate and resolve any dispute between the Board and any of the above entities or among themselves by following due principles of natural justice, production of evidence and fair hearing.
  3. The Ombudsman may also entertain and redress any grievance or complaint by members of the public if they concern ticketing, access and facilities at stadia, and lack of transparency in the award of contracts for goods and services.
- Betting in sports: whether it should be legalised or not

### Problem

In the earlier times, cricket was considered to be a gentleman's game which was played by the rich

people and the people of higher class. But as the game grew, it became very common and was played by every class of society. The game was highly entertaining and was a pure delight for the players and the spectators. Cricket was highly successful in attracting the individuals of the colonial states of the British Empire. With the invention of television, the success of the game was sky high by gaining global audience. Eventually the game became a subject of endorsements, commercials and many pre and post match programmes, hence attracting betting and match fixing into the game and making money. It was not governed properly and there was an open scope of making money from the game through betting and match fixing. The cricket world has seen many instances of illegal match fixing by both individual players and cricket teams as a whole. Many allegations were made on teams of South Africa, Pakistan, India and many others in which the act of match fixing was also proved. It is quite clear that match fixing/spot fixing is a threat to the integrity and dignity of the cricket game in the sporting universe which should be removed in order to maintain fairness in cricket.

Most of the times betting and match fixing/spot fixing are given the same meaning and are treated as same. It is therefore very important to know the difference between the both so that it becomes easy in regulating the game and removing the things that are threat to its fairness. Match fixing/spot fixing affects the fairness of the game and attempts to tamper with the results of the match by involving players of the match or the management of the team with on objective of benefiting a small group of people who put their money in the game. On the other hand, betting is present in different sections of the society and do not involve the players of the match or the management of a team. Betting doesn't affect the integrity and fairness of the game and can be governed by making necessary laws or providing legal frameworks, but match fixing/spot fixing can never exist without affecting the integrity of the game and can only be controlled by making it a criminal offence punishable by law.

### Solution

1. The betting community is very large and there is a huge amount of money involved in cricket, but as it is not legal in India, most of the betting is done secretly and if such betting is legalised, as has been done in the United Kingdom, it would help both the game and the economy of the country.
2. Appointment of the Disciplinary Committee, mentioned in the BCCI and IPL regulations

relating to Anti-Corruption, by a Committee of the Ombudsman.

3. Necessary regulatory watchdogs to monitor the betting houses and the transactions involved.
4. Furnishing the details of the income and assets of the players, administrators and others closely associated with the sport for transparency.
5. Licensing the betting houses which may be cancelled if such places do not follow the regulations.
6. Strict penal provisions.
5. Transparency

### Problem

The functioning of the BCCI is not done in a fair and transparent manner. Those who seek greater information are rebuffed by the Board. Those whose professional livelihoods depend on cricket acknowledge the BCCI's total sway over the sport, and choose to remain silent.

Even in regard to cricket commentary, games organized by the BCCI have a contractual condition that there can be no criticism of the BCCI or its selection process, thereby curtailing an exercise of free speech. Commerce has also overtaken the enjoyment of the sport, with advertisements continuing many a time, even after the first ball and again commencing even before the last ball of the over is played, thereby interrupting the full and proper broadcast of the game. There appear to be no standard norms and objective criteria for the selection and empanelment of professionals in the fields of law, audit, etc. Similarly, even as far as infrastructure contracts, media engagements, television rights and equipment supply, no norms or procedures exist to select or engage contractors in a fair and transparent manner.

### Solution

1. Objective commentary ought to be permitted about everything connected to the match, allowing the commentators to express themselves freely and objectively.
2. It is necessary that to serve both Players' and the public, with all Rules, Regulations, Codes and Instructions of the BCCI that is to be translated into Hindi and both versions be uploaded onto the official website by the BCCI and its Members.
3. The BCCI should use the latest and updated tools of Information Technology in governance, management and general decision making.

4. The Panel recommended that all existing contracts for international Test & One-Day matches be revised and new ones ensure that only breaks taken by both teams for drinks, lunch and tea will permit the broadcast to be interrupted with advertisements, as is the practice internationally.
5. The entire space of the screen during the broadcast will be dedicated to the display of the game, save for a small sponsor logo or sign.
6. The Committee proposes that clear principles of transparency be laid down, and the BCCI website and office will carry all rules, regulations and office orders of the BCCI, the constitution of the various committees, their resolutions, the expenditures under various heads, the reports of the Ombudsman/Auditor/Electoral Officer/Ethics Officer and the annual reports and balance sheets.
7. The norms and procedures shall be laid down for the engagement of service professionals and contractors, and there shall be full transparency of all tenders floated and bids invited by or on behalf of the BCCI.
8. It was recommended that the legislature must seriously consider bringing BCCI within the purview of the RTI Act.
9. The Committee recommended that the Auditor should be tasked not only with a financial analysis, but also specifically carry out a performance audit (Compliance Report) to determine whether the State associations have actually expended their grants towards the development of the game and mark them on a report card which will be utilized to determine the due they deserve the following year.

### Conclusion

The report intends for an end to regional excesses and imbalances, reign by cliques, corruption and red tape, all of which have harmed the game and the youngsters looking for nothing more than to take the field in flannels. Furthermore the report seeks to bring a greater transparency to the sports which millions of Indians follow. If there has been one unifying factor in India, it has been cricket. To cleanse the sport from all sort of allegations is necessary to restore the faith of millions of Indians following the sport.

One of the recommendations of this committee has been on advertisement-free television broadcast of matches in India. This recommendation faced heavy criticism and the point to ponder is the amount of

revenue that is generated through broadcast. This step will lead to a heavy loss and there is no alternate suggested way to recover the lost amount. If at all an add-free broadcast of matches is done then how would the players be compensated, is untold.

Further the committee maintains an erroneous stand in stating that a politician can hold a post in BCCI but a minister cannot. The reasoning behind such recommendation is unreasonable.

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