

LODHA PANEL RECOMMENDATIONS; AGREEMENTS AND DISAGREEMENTS



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The Recommendations by Lodha Panel: Agreements and Disagreements

INTRODUCTION

Cricket is probably the most popular sport in India and the players are role models for many young girls and boys. However, cricket has also been in news for several wrong reasons – like match fixing and internal politics and power play. Recently, Supreme Court accepted the recommendations given by a panel headed by Justice R M Lodha with a few changes in it. This news encompasses the Board of Control of Cricket in India (BCCI), Supreme Court of India, and Justice RM Lodha panel. BCCI is a national governing body of cricket which was formed in 1928 under Tamil Nadu Societies Act, 1928.

The recent debate surfaces around the functioning of BCCI and sport laws in India. BCCI has remained an old power functioning with complete discretion while suffering from corruption and incompetency. Its functioning had many flaws such as no provision for disqualification of members, unlimited terms and tenures, closed door affairs and no independent voice. Absence of equal representation and overlapping of diverse functions led to concentration of power and formation of oligopolies.

In this article, we will discuss the recommendations given by Lodha panel, BCCI's response to the recommendations and Supreme Court's judgment on it.

BACKGROUND

The Justice Mudgal Committee was formed by Supreme Court to conduct an independent inquiry into the allegations of corruption and match fixing during IPL (Indian Premier League) 2013. It submitted its report in 2014 describing the irregularities in IPL and functioning of BCCI. Thereafter, the Supreme Court formed another panel headed by Justice R M Lodha in January 2015 to look into the matter further. The panel included two other retired Supreme Court Judges Ashok Bhan and R Raveendran. The Lodha committee decided to focus on three major tasks.

- (i) Deciding on the terms of punishment for those who have been found guilty by the Mudgal committee.
- (ii) Scrutinizing the role of COO (Chief Operating Officer) Sundar Raman in the IPL spot-fixing scam of 2013.
- (iii) Making the functioning of BCCI more transparent and accountable.

As a follow up on the first point i.e. punishment to offenders, the committee imposed a life ban on the accused Gurusath Meiyappan (son in law of former BCCI president N Srinivasan) and Raj Kundra, on account of betting and leaking confidential match related information. The committee also suspended the IPL franchises, Chennai Super Kings and Rajasthan Royals for two years. It submitted its report on the recommendations to make the functioning of BCCI more transparent and efficient to Supreme Court in January 2016. The report had looked into different areas of governance, management, membership and finance of the board. The recommendations sought to make the body more accessible, professional, uniformly representative and accountable.

THE RECOMMENDATIONS GIVEN BY JUSTICE LODHA COMMITTEE

A brief review of the recommendations of the committee includes the following-

1. Membership and state associations

'One State, One Vote'

The committee recommended that every state which is a member of BCCI should have equal and one single vote. A few states like Gujarat and Maharashtra were represented by more than one association. This new rule implied that only one association of the state would be a full member of the board and have voting rights, the rest of the associations belonging to that state would be associate members. Lodha Committee recommended relegation of railways, services and universities as Associate members. The associate

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members would not have voting rights. This also implied that there would be no zonal representations in the governance. However zones will be relevant in terms of tournaments¹.

The Panel directs the state associations to have a structure similar to the Board in terms of governance, recruitments and other functions

2. Office Bearers

Limited Tenures and mandatory 'Cooling Off'

An official in the Board can serve a maximum of three terms, each term of three years. However a person cannot hold office continuously for three terms. A mandatory 'cooling off period' (break) of three years is required after each term. A person can hold office for three years, thereafter has to take a break of three years before he can hold office again. Office bearers cannot migrate from state association to the Board or vice versa without the cooling off period. This rule applies to the state associations under BCCI.

3. Governance and management

'Separation of Governance from management; professionalism in management'

One apex council should be formed to look after the governance of the Board. It will consist of five office bearers of the BCCI, an elected representative of the General Body, Players Association (one man and one woman) and a nominee from the Comptroller and Auditor General's office.

For the management of BCCI a CEO with strong credentials should be appointed to handle non-cricketing affairs. The large number of Standing Committees and Sub-Committees created should be reduced to two essential ones that would advise the CEO with reference to tours, technical aspects and tournaments. The selection and performance evaluation should be done only by former professionals.

4. Transparency

Bringing BCCI under RTI Act and independent Audit

One of the recommendations as mentioned earlier was that the functioning of BCCI should be more transparent and accessible to public. Reports and details of meetings and events should be made open for public. An independent auditor should be appointed to check the expenditure of the grants by members to check corruption. Independent monitors (ombudsmen) and electoral officer should resolve the grievances of different stakeholders and to check internal disputes.

The other recommendations talk about the representation and involvement of players through the Players association. The panel recommended less autonomy to IPL while bringing awareness and sensitization among players regarding the ethics of the play.

BCCI vs. SUPREME COURT

In the judgment given by Supreme Court on 18th July 2016, Supreme Court accepted almost all of the recommendations and marked the absence of any reason to disagree with them. However there was much hesitation on the part of BCCI towards implementing the recommendations and it missed the deadlines given by Apex court to implement them.

BCCI charged an affidavit in Supreme Court against the report and also formed a legal panel, headed by former Supreme Court Judge Markanday Katju to help them understand the implications of the reforms. Justice Markanday Katju termed the recommendations as bogus and said that the Apex court cannot force the recommendation on BCCI².

¹ Supreme Court Committee on Reforms in Cricket, Retrieved from <https://lodhacommittee.wordpress.com/2016/09/28/status-report-with-annexures-28-9-2016-pdf-format/> on 18 august 2018

² Timeline of BCCI v Lodha Committee, Times of India. Retrieved from <https://timesofindia.indiatimes.com/sports/cricket/news/timeline-of-bcci-v-lodha-committee/articleshow/61845064.cms> on 18 august 2018

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Since BCCI failed to implement the recommendations, the Supreme Court removed the BCCI president Anurag Thakur and Secretary Ajay Shirke in January 2017 and charged them with perjury and Contempt of Court³. Supreme Court formed a four member committee headed by former CAG Vinod Rai to look into the functioning of BCCI and execute the implementation of the recommendations.

BCCI'S DISAGREEMENTS WITH THE RECOMMENDATIONS

1. The recommendation that BCCI opposed the most was 'one state – one vote' rule. The Board argued that it will lead to politics as stronger states will be able to tamper the votes of other states through political influence⁴. Losing the right to vote will also place state associations, who have been stakeholders of the Board for a long time in a position of disadvantage.
2. BCCI found the age cap of 70 years to be very unrealistic, as at this age cap it will be very difficult to find experienced administrators⁵. Many state associations will lose their top official if this rule is followed. BCCI also felt that it was unnecessarily targeted as this rule has not been applied to other Sports Associations. As per the Board, an office bearer is elected through a democratic format of internal election and therefore this proposal is subjected to criticism⁶.
3. BCCI opposed the inclusion of Comptroller and Auditor General (CAG) nominee in the working committee as this is contrary to the constitution of BCCI which does not permit the involvement of a non member in the management of the Board. The day to day judicial interference will decrease the autonomy and slow down the functioning of BCCI.
4. Like NGO's and social groups, Lodha Panel also demanded BCCI to be transparent and come under RTI. However BCCI argued that it does not use any fund from the government. Also, it is not controlled by the Central or any state government hence it should not be subjected to RTI.
5. Lodha committee recommended that commercial gaps and advertisements in live matches should be restricted to the extent of drinks and break session. Unnecessary advertisement after every over and fall of wicket should be avoided. The BCCI was against it as such an act would hamper its earnings and jeopardize the original contracts with the broadcasters. The board needs to run training programs and search for talented players in small towns and villages which require huge amount of funds and for this advertisements are its major chunk of revenue.⁷

RECENT JUDGMENT PASSED BY SUPREME COURT ON 9TH AUGUST

The judgment of Supreme Court given by three Judge Bench led by Chief Justice of India, Deepak Mishra, passed on 9th August 2018 accepted the recommendations after reviewing some of them.

³ ibid
⁴ BCCI vs COA: 'One state one vote' and 'cooling-off period' clauses can be reconsidered, says Supreme Court bench, Retrieved from <https://www.firstpost.com/firstcricket/sports-news/bcci-vs-coa-one-state-one-vote-and-cooling-off-period-clauses-can-be-reconsidered-says-supreme-court-bench-4673841.html> on 16 august 2018

⁵ Lava, Why BCCI is against implementing key Lodha panel reforms, *Hindustan times* Retrieved from <https://www.hindustantimes.com/cricket/bcci-opposing-lodha-reforms-that-threaten-to-prune-wings-of-top-officials/story-PxhBOVITEAixOJtwNFDcOO.html> on 18 august 2018

⁶ ibid

⁷ ibid

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1- 'One state-one vote'

The Supreme Court ruled that 'one state one vote' was based on the principle of inclusivity and equal representation. However this could not be used for exclusion of groups which have been members from a long time. The historical value and contribution of the state associations of Maharashtra (Maharashtra, Mumbai and Vidarbha) and Gujarat (Gujarat, Baroda, Saurashtra) should be recognised. These associations have made a significant contribution to cricket in India by fielding teams for the Ranji Trophy, and producing players of national and international repute⁸. Hence these Associations should be full members of the Board and have voting power. As the Universities are a nucleus for encouraging cricket among young student players, full membership should be granted to the Association of Indian Universities along with Indian Railways.

2- Tenure and cooling off period

Supreme Court agreed that a long and continuous tenure would bring monopoly, and lead to situation of conflict of interest. Cooling off should be mandatory as it safeguards against the concentration of power and encourages a wider body of experienced administrators.

Supreme Court mentioned that a cooling off period after each single term (as recommended by Lodha Panel) will be a hindrance to continuity and efficient functioning. It will not allow the office holder to use the experience earned in the previous term. Supreme Court made Cooling off period mandatory only after two terms have been served i.e. after the person has held the office for six continuous years. During the cooling off period, an office bearer shall not be a member of the governing council or of any committee of the BCCI or of a state association. Though BCCI had opposed, Supreme Court gave a go to the recommendation of the age cap of 70 years and the maximum tenure of three terms.

3- Members of the council:

Lodha Panel restricted the number of members of selection committee to three. Supreme Court pointed that three members would be deficient as they have to select players from a wide pool of talent and travel extensively. To facilitate and make the selections more efficient, a five-member selection team becomes a necessity. The Court also made it clear that BCCI is run by the money of fans which is also public money hence should come under RTI Act, 2005.

CONCLUSION

The Supreme Court's review of the recommendations is a balanced approach between BCCI's ascendancy and Justice Lodha's ambitious recommendations. Some of the recommendations though vehemently opposed by BCCI have not been changed e.g. the appointment of CAG nominee and coming under RTI Act. The recommendations are broad based and are supposed to change the nature of the Board in whole. The Board's power play, failure to maintain law and follow the rules of the land had been questioned many times in the past. The Supreme Court had previously criticized the Board for irrational fund allocation between affiliated states⁹. In spite of Supreme Court's notices for BCCI to implement the recommendations, BCCI turned a deaf ear to it, whereas state associations of Vidarbha and Tripura had accepted the recommendations in toto.

This whole episode reveals the defiant nature of BCCI and of its non compliance to the directives of the court can be interpreted as contempt of court. The Supreme Court has clearly stated that amendments to the recommendations can be done by the Court alone. This pushes BCCI into a situation where it has to implement the recommendations without any further contemplation. These series of past events illustrates the check and balances required in the democratic and efficient functioning. There is a further need to make laws about women representation in BCCI, which has been very limited. Even after reforms, only one position in the working committee is reserved for women. The participation of women should be encouraged and more seats should be reserved in the Board and state association. There is also a dire need of increase in funds for the women cricket teams, with enhanced support of training and coaches. Efforts should be put to attract the mass media for the media teams. The talent hunt and training programs in smaller town should be encouraged.

⁸ Supreme Court Judgment retrieved from https://www.sci.gov.in/supremecourt/2013/24114/24114_2013_Judgement_09-Aug-2018.pdf on 17 August 2018

⁹ Timeline of BCCI v Lodha Committee, (Nov 29, 2017) *Times of India*. Retrieved from <https://timesofindia.indiatimes.com/sports/cricket/news/timeline-of-bcci-v-lodha-committee/articleshow/61845064.cms> on 18 August 2018

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The Indian Premier League is a big event and prone to mismanagement and corruption. Experts have also suggested that a separate body must be constituted to manage the affairs of IPL which should completely different set of rules and be under scrutiny of CAG.

The reforms will hopefully bring an end to the clashes between BCCI and other bodies and make cricket more accessible for all the groups and regions. However beyond the reforms, a constant check on and scrutiny of the functioning of the Board is required. The reforms should not be restricted to BCCI alone and should be brought to other autonomous bodies as well.

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Governance and Development

More than 1600 online posts taken down since 2016: Government of India (Medianama, Aug 17, 2018)

Responding to a parliamentary question, the reply by the Minister of Electronics and Information Technology Shri Ravi Shankar Prasad stated that a total of 1.662 URLs have been taken down since 2016. The number is not exhaustive and does not include instances of states asking the content to be taken down. The content is taken down under Section 69A of the IT Act. It requires intermediaries (like social media platform) to take illegal content down after being informed about it. There were 584 instances of companies not blocking the link after being requested to do so.

Read more: <https://www.medianama.com/2018/08/223-govt-blocked-1662-urls-social-media-2017/>

Soft rice from Assam gets Geographical Indications tag (The Statesman, Aug 17, 2018)

Boka Soul – an indigenous variety of rice produced in Assam got the Geographical indications Tag, known as GI tag. The rice is often called as ‘Magic rice’ as it requires no cooking. GI tag is assigned by Geographical Indication of Goods, under the Intellectual Property of India (IPI) to quality-assured and distinct goods.

Read more: <https://www.thestatesman.com/india/assams-magic-rice-gets-gi-tag-everything-need-know-1502671564.html>

Rajasthan launches breastfeeding drive to lower down infant deaths (The Guardian, Aug 17, 2018)

The Rajasthan government has launched a campaign to promote breastfeeding particularly in the first hour after birth. The government has already succeeded in increasing the number of hospital deliveries to roughly 84% of all births, but has been less successful in promoting breastfeeding. An estimated 58% of women in the state exclusively breastfeed in the first six months, and only 28% of babies are breastfed in the first hour – one of the lowest rates in the country.

Read more: <https://www.theguardian.com/global-development/2018/aug/17/indian-state-rajasthan-breastfeeding-drive-infant-deaths>

International Affairs

Germany government approves the draft law allowing a third gender option at birth (Made for Minds, Aug 17, 2018)

Germany's Cabinet approved the draft bill that would give the option of third gender for official identification on Wednesday. Last year, the Constitutional Court of Germany had found that the current system of gender identification violated a person's individual rights and anti-discriminatory laws. The bill is a follow-up to the order. Around 80, 0000 to 120,000 people in Germany identify themselves as intersex.

Read More: <https://www.dw.com/en/german-cabinet-approves-third-gender-identity/a-45090243>.

Professional Women in South Korea being questioned for post pregnancy priorities (BBC, Aug 20, 2018)

A number of women are choosing to not opt for Pregnancy and instead focus on their careers. BBC has also stated that primarily the reason for not having babies is that careers is impacted because of possible motherhood which eventually affects the career which women increasingly in South Korea do not want. Though there are laws preventing discrimination but the reality is different. The superior of Moon-Jeong, a working women in South Korea repeatedly asked her is not the baby going to be the priority after pregnancy and job will take a backseat. This pattern is alarming because population of South Korea will start shrinking unless these choices witness some change.

Read More: <https://www.bbc.com/news/stories-45201725>

Decriminalisation of Domestic Violence in Russia leads to fall in reported cases (Guardian, Aug 20, 2018)

In Feb, 2017 Russia brought controversial amendment to Russian law and decriminalised some forms of domestic violence which has almost halved the number of cases reported to the police in 2017 since physical abuse became punishable by fine rather than time in prison.

A total 36,037 domestic violence cases were reported in 2017, compared with 65,543 in 2016, with 25,667 of the 2017 cases involving violence against women, compared with 49,765 cases the year before. This scenario of less reporting of cases portray the lie that less women are suffering from Domestic Violence while it is the law which is actually deterring women from approaching police. According to domestic violence report, more than 16 million women a year are estimated to experience domestic violence in Russia, but only 10% of them go to the police.

Read more:

<https://www.theguardian.com/world/2018/aug/16/decriminalisation-of-domestic-violence-in-russia-leads-to-fall-in-reported-cases>

Environment

Government releases standard environment clearance conditions for 25 major sectors (Mongabay, Aug 17, 2018)

Aiming to bring “Uniformity” in terms and conditions for environment clearances, the Union Ministry of Environment, Forest and Climate Change (MoEFCC) released standard environment clearance conditions for 25 industrial sectors. The sectors include Petroleum refineries, petrochemical complexes, iron and steel plants etc. The move has received criticism from Environmentalists, calling it a step which will lead to further dilution the green laws.

Read more: <https://india.mongabay.com/2018/08/16/government-comes-out-with-standard-conditions-for-environment-clearances/>

Internet habits might be impacting Wildlife (Bbc Earth, Aug 20, 2018)

The Red Panda Network is a charity dedicated to raising awareness of the animals’ plight and funding essential conservation programmes. Since 2010, they’ve organised the annual International Red Panda Day to get the message across that these animals are more than just cute YouTube fodder. Sadly, despite efforts to protect the animals, half a dozen were rescued from smugglers in Laos in January 2018 who intended to sell the animals as pets on the black market. Whether this attempted supply was a direct result of internet popularity driving demand is very difficult to prove. There’s evidence however that the wrong kind of coverage of a species can reinforce alarming attitudes.

Read more: <https://www.bbcearth.com/blog/?article=are-your-internet-habits-harming-wildlife>

Health

Scientists have found a way to detect five deadly diseases through DNA (New York Times, Aug 20, 2018)

Scientists have created a powerful new tool to calculate a person's inherited risks for heart disease, breast cancer and three other serious conditions.

By surveying changes in DNA at 6.6 million places in the human genome, investigators at the Broad Institute and Harvard University were able to identify many more people at risk than do the usual genetic tests, which take into account very few genes. Of 100 heart attack patients, for example, the standard methods will identify two who have a single genetic mutation that place them at increased risk. But the new tool will find 20 of them, the scientists reported on Monday in the journal Nature Genetics.

ReadMore: https://www.nytimes.com/2018/08/13/health/genetic-test-heart-disease.html?rref=collection%2Fsectioncollection%2Fhealth&action=click&contentCollection=health®ion=rank&module=package&version=highlights&contentPlacement=7&page_type=sectionfont

Bleak New Estimates in Drug Epidemic: A Record of 72,000 Overdose Deaths in 2017 (New York Times, Aug 20, 2018)

Congress is debating a variety of bills to fight the epidemic. Many of the measures, which have passed the House but have not reached the Senate floor, are focused on reducing medical prescriptions of opioids, and are meant to reduce the number of new drug users. But the package also includes measures that could expand treatment for people who already use opioids.

The epidemic could also intensify again. One worrying sign is that there is some early evidence that drug distributors are finding ways to mix fentanyl with black tar heroin, which could increase death rates in the West. If that becomes more widespread, the overdose rates in the West could explode as they have in parts of the East.

Read More: <https://www.nytimes.com/2018/08/15/upshot/opioids-overdose-deaths-risin-fentanyl.html?rref=collection%2Fsectioncollection%2Fhealth>

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