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Conflict of interest in sports governance-BCCI vs IPL

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Abstract

Conflict of interest becomes a key issue among stakeholders, both public and private sectors. Conflict of interest is a matter of ethics and potentially leads to more severe corruptions. It is visualized as new threats or barriers to national development. When policy makers and government officials abuse their powers for private gains it affect public interest. This demolishes potentials and destroys opportunities for long-term development.

This paper has its aims to understand the ongoing Conflict of Interest investigations and counter arguments within the Board of Control for Cricket in India (BCCI) and the role of the Supreme Court appointed panel in streamlining complexities involving roles and remuneration.

Keywords: Ethics, conflict of interest, BCCI, Lodha panel, IPL

1. Introduction

Bribery, kickbacks, and other clear-cut forms of corruption are serious problems for genuine bad apples; however, much of the problem with conflicts of interest is not intentional corruption but unintentional bias. Bias is widespread and is a problem even for well-meaning professionals. Human reasoning is easily pressed into the service of one's own interests. For example, and as a general matter, whenever a person can reap rewards for recommending a particular course of action, he or she is more likely to recommend that action, even while honestly (but incorrectly) believing that he or she has acted objectively.

1.1 Definition

The Board of **Ethics** defines "**conflict of interest**" as a situation in which personal and/or financial considerations have the potential to influence or compromise professional judgment in clinical service, research, consultation, instruction, administration, or any other professional activity.

1.2 Identifying Conflicts of Interest

Since many conflicts of interest involve commercial interests or financial arrangements, all business practices, even commonly occurring business practices, should be evaluated to be sure that they will not introduce biases or preferences into the professional's clinical judgments or research interests. Generally, if a professional enjoys any unearned financial benefit, even a benefit as minor as a free box lunch, conflict of interest may be suspected.

Personal and family relationships always arrange themselves along a continuum from the very close and intimate to the distant and detached, so it can be particularly difficult to recognize conflicts of interest that arise from personal friendships. Any time a pattern of preference emerges that cannot be explained on the basis of shared assessments, proven competence, or empirical facts, a conflict of interest may exist. Such patterns may occur in referrals, in the evaluation of employees, or in the assessments of students and fellow faculty members.

1.3 What to Do About Conflicts of Interest

The proper responses fall into three categories: *avoid*, *disclose*, and *recuse*.

Obviously, the best thing to do is avoid situations that give rise to conflicts of interest or that even appear to give rise to such conflicts. In commercial and financial matters, avoidance is by far the best strategy. This does not mean that absolutely no non-wage benefits may be accepted, but it does mean that some are prohibited and that all should be carefully

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scrutinized. Speech-language pathologists and audiologists should not accept gifts or benefits unless it can be clearly demonstrated that such gifts or benefits

- primarily contribute to the welfare of persons served professionally
- Do not reasonably appear to bias professional judgment
- Enhance one's professional knowledge and skills
- Do not diminish the dignity or autonomy of the professions.

Disclosure is often associated with recusal. When one sits on a committee or a board that makes decisions about the advancement of others or about the distribution of resources and benefits to others, a conflict of interest may require that the professional withdraw or recuse herself or himself from a particular consideration or decision. This may occur because of the professional's financial interests in or personal ties to one or more of the parties being considered. By disclosing the nature of the association and by stepping out of the decision-making process, the professional ensures that any personal preferences or biases she or he may have will not unfairly influence the deliberations in favour one candidate and against others.

1.4 Examples of Conflict of Interest

With this in mind, consider the following types of typical conflicts of interest listed by Canadian political scientists Ken Kernaghan and John Langford in their book, *The Responsible Public Servant*. They list seven categories:

- [1] Self-dealing.
- [2] Accepting benefits.
- [3] Influence peddling.
- [4] Using your employer's property for private advantage.
- [5] Using confidential information.
- [6] Outside employment or moonlighting
- [7] Post-employment.

2. Conflict of Interest in Indian Cricket BCCI & IPL relationship (2007-date)

The Board of Control for Cricket in India (BCCI) is the national governing body for cricket in India. The board was formed in December 1928 as a society, registered under the Tamil Nadu Societies Registration Act. It is a consortium of state cricket associations and the state associations select their representatives who in turn elect the BCCI officials.

The Indian Premier League (IPL) is a professional Twenty20 cricket league in India contested every year by franchise teams representing Indian cities. The league, founded by the Board of Control for Cricket in India (BCCI) member Lalit Modi in 2007,

In Jan 2016, the Supreme Court appointed Lodha Committee to recommend separate governing bodies for the Board of Control for Cricket in India (BCCI) and the Indian Premier League (IPL), where Justice RM Lodha suggested a One State- One Member pattern for the board.

2.1 Conflict of Interest Controversy in Indian Cricket

Conflict of interest has become the single most relevant term that is synonymous with Indian cricket in 2016. The conflict of interest phenomenon has shaped how ethics in cricket is to be determined. A working definition for conflict of interest is: 'a situation that has the potential to undermine the impartiality of a person because of the

possibility of a clash between the person's self-interest and professional interest or public interest.' If that isn't a familiar theme for Indian cricket, then one wonders what possibly is.

2.2 Controversial Clause 6.2.4

No administrator shall have directly or indirectly any commercial interest in any of the events of BCCI, excluding IPL and CLT20.

It was this revised clause which allowed Srinivasan to own a team in the IPL and it is this clause, which if retained its original version would have prevented much of what went wrong with the BCCI-IPL in the context of conflict of interest

This clause did not solve the basic problem of preventing conflicts of interest for non-administrators, but kept actionable a breach of this basic conflict of interest.

Functioning as a private body, the board had very little accountability in the years leading up to the IPL's launch, and for at least a few seasons of the league.

2.3 Background behind the controversy

It was unearthed when the Justice Mudgal Committee was tasked with determining corruption and spot-fixing in the IPL. Then the Supreme Court intervened through the course of the hearings on the spot-fixing scandal. It has now stretched across the various verticals, and today the board is on the defensive.

2.4 Tackling Conflict of Interest

Conflict of interest can be tackled effectively in a few ways, all of which are intuitive. Eliminating two counterproductive roles that benefit the person who is on both sides of the table or benefits from one side of the table, is intuitive. Recusing oneself when one's commercial interest is being probed, and one's relative is being interrogated, ought to be an obvious step. Ensuring that individuals with fiduciary responsibilities should not use the information they receive confidentially for personal and illegal gain, is elementary. But it turns bizarre when a national team selector is also an IPL team's brand ambassador, and when the said IPL team belongs to the board's president.

2.5 Grey areas to be addressed

In today's IPL, conflict of interest has marred four key grey areas.

- The Conflict between cricket administrators and their commercial interests in cricket—facilitated, before it was struck down, by the revised clause 6.2.4.
- The Conflict between active players owning shares or equity in sports management companies that represent them and other active players.
- A combination of non-traditional versions of conflict of interest that appear to compromise positions of individuals involved with the BCCI and the IPL
- The duality of roles performed by public officials who hold positions in the BCCI.

2.6 List of certain individuals with Conflict of interest

Anil Kumble; Brijesh Patel; Ravi Shastri; Sunil Gavaskar; Sachin Tendulkar; Rahul Dravid; V V S Laxman; Sourav Ganguly; Sanjay Bangar

2.7 What is Lodha Panel?

A three man committee appointed by Supreme Court of India (by a 2 men-bench of Justice TS Thakur and Justice F.M.I. Kalifulla) in January 2015.

4.7.1 Why it was appointed?

SC came across BCCI’s discrepancies pertaining to its own rules and standard operating procedures in its course of hearing of 2013 IPL spot fixing case. It was made after Mukul Mudgal committee report was submitted. Committee members were:

- Justice RM Lodha(Rtd. CJI)
- Justice Ashok Bhan
- Justice RV Ravindran

SC appointed Lodha panel afterwards in 2015 and entrusted it with 3 tasks:

- Determine appropriate punishments for Gurusath, Raj Kundra and franchises
- Examine role of IPL chief operating officer in 2013 spot fixing scandal and impose punishment if feasible on behalf of BCCI
- Suggests recommendations :
 - To amend processes followed by BCCI
 - To prevent frauds and conflict of interests.
 - To make board more responsive

2.7.2 Recommendations of the Lodha Panel

- One state one cricket body–
 - a. Bringing board under RTI-
 - b. One membership norm-
 - c. Uniform state association structure

- Three independent authorities to be made- :An ombudsman, Ethics Officer, Electoral officer
- To make spot fixing and match fixing a criminal offence.
- To legalize betting with strong safeguards, except for those covered by the BCCI and IPL regulations–
- With regards to the appointment for the post of president, VP, secretary, joint secretary and treasurer of the board certain eligibility criteria has been fixed such as –
 - No minister or government servant can be elected to these posts,
 - He must be an Indian,
 - He must not be above age of 70,
 - He must not be an insolvent,
 - Someone who has not held office in the BCCI for a cumulative period for nine years.

Furthermore, the report states that each office bearer will have tenure of three years and can contest for maximum three terms. The office bearers will have a mandatory three years cooling off period before they can be re-elected for other post.

Apex council creation and CEO run organisation– BCCI administrative structure to have a CEO under whom 6 professional managers will work. It will take major admin decisions on non-cricketing affairs and day to day management. It will be helped by two committees suggested as written in next point. This CEO+6 managers team will be responsible to a proposed ‘apex council ‘of 9 members.

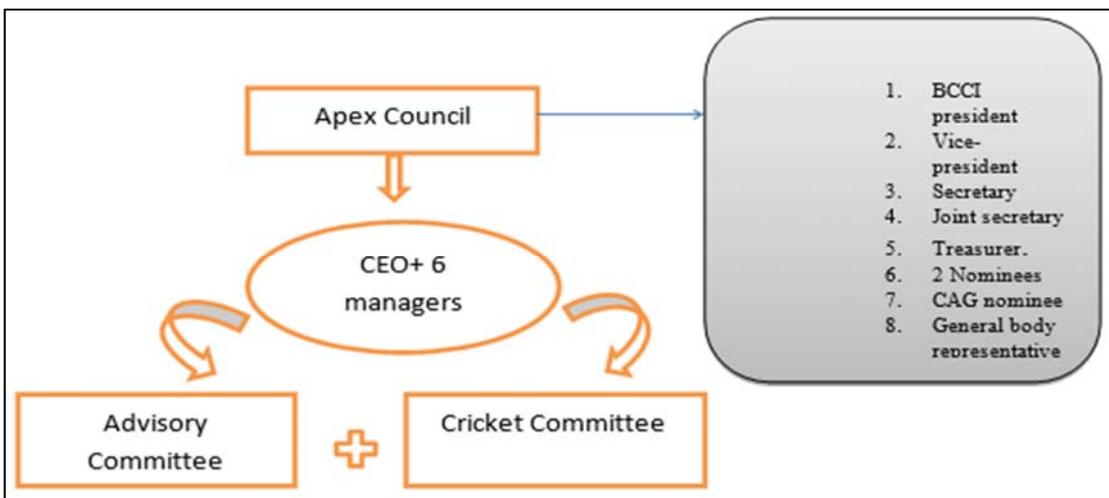


Fig 1

- Establishing clear norms for reducing conflict of interests between different parties of the board
- Independent audit to monitor how state associations are using grants given by BCCI. Report findings to the board.
- A player association formation-
- Separate governing bodies for IPL and BCCI-
- Two IPL franchisees nominees, on an annual rotational basis.
- The CAG’s Councillor on the BCCI Apex Council will be a member.
- One Cricket Players’ Association nominee.
- Senior selection committee to be made up of former international test cricket players. Most capped player to be its chairman.
- Lodha panel committee recommended that during test cricket matches and ODI, commercials could be aired during drinks, lunch and tea intervals only. Broadcast space should not be utilized for ads except primary sponsors.

3. Conclusion

It seems BCCI approach is two pronged, one, it is trying to follow 'due process' by studying report and second raising objections on important recommendations which are paramount in its restructuring. Lodha panel has tried to push aside the influence of persona on management and strengthen the institution. Opening to accountability will restore confidence of the public and set a role model for other sports too.

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