

Lodha report recommends legalisation of sports betting

The Supreme Court-appointed Lodha Committee issued its report into alleged corruption in Indian cricket on 4 January. The implications of the Committee's report extend beyond disciplinary actions to include recommendations aimed at the legalisation of sports betting in India. Gowree Gokhale and Rishabh Sharma of Nishith Desai Associates review the thinking behind the key recommendations set out in the report and whether these recommendations are viable, especially regarding the likelihood of legalised sports betting in India.

Since its launch in 2008, the Indian Premier League ('IPL') has become the most watched Twenty20 cricket competition. However, the IPL has been mired in match-fixing controversies for the last couple of years. In May 2014, an official from Chennai Super Kings, Mr. Meiyappan, and the son-in-law of the then Board of Control for Cricket India ('BCCI') President Mr. Srinivasan, were arrested and charged with cheating, fraud and forgery during the 2013 IPL. It was later reported that the co-owner of the Rajasthan Royals, Mr. Kundra, had confessed to betting on IPL matches.

The BCCI's probe panel (the 'Probe Panel') gave a clean chit to Mr. Meiyappan and Mr. Kundra. Thereafter, a Public Interest Litigation ('PIL') filed by the Cricket Association of Bihar before the Bombay High Court ('BHC') argued that the appointment of the Probe Panel was illegal, as the Probe Panel was constituted while Mr. Srinivasan was the President of the BCCI, and it requested the appointment of a fresh committee to probe the allegations. The BHC

held that the Probe Panel had been constituted illegally and observed that there were disparities in the evidence collected by the Probe Panel. The BCCI challenged the decision of the Bombay High Court before the Supreme Court ('SC').

Justice Mudgal Committee

To conduct an independent investigation into the corruption allegations in the 2013 IPL, the SC constituted a committee headed by former High Court Judge, Mr. J. Mukul Mudgal (the 'Mudgal Committee'). The Mudgal Committee's report found evidence against Mr. Meiyappan and Mr. Kundra. Subsequently, the SC named four individuals, namely Mr. Srinivasan, the IPL's Chief Operating Officer Mr. Raman, Mr. Meiyappan and Mr. Kundra as party to the spot-fixing scandal during the 2013 IPL.

The Mudgal Committee report also touched upon the issue of betting on cricket in India. The report highlighted the acute lack of a consolidated and uniform law on betting and gambling that should be enforced throughout the country. It emphasised that the current *status quo* in law with regards to betting and fixing had created an operational impediment for investigating and prosecuting agencies to combat the evils of corrupt practices in the sport. It stressed the urgent need for a substantive law that would regulate the betting environment.

Justice Mudgal staunchly favoured legalising sports betting in India to protect the integrity of the sport and its players, and also to enable the Government to earn tax revenue¹. He observed that although malpractice in sports cannot be eliminated completely; legalising betting would regulate the environment and reduce malpractice².

The Supreme Court Order and the Lodha Committee appointment

In January 2015, the SC held Mr. Kundra and Mr. Meiyappan guilty of betting. The SC also constituted a three member committee comprising of Mr. Justice R.M. Lodha, former Chief Justice of India, Mr. Justice Ashok Bhan and Mr. Justice R. V. Raveendran, former judges of the SC (the 'Lodha Committee'). The terms of reference of the Lodha Committee were: to determine the quantum of punishments to be awarded; to examine the role of Mr. Raman (then COO of the IPL), and if found guilty, the imposition of a suitable punishment; to recommend reforms to the practices and procedures of the BCCI and suggest amendments to its memorandum of association and rules and regulations; whilst making any other recommendations necessary to prevent sporting frauds and conflicts of interest, and to streamline the work of the BCCI to make it more responsive to the expectations of the public at large and to bring transparency to the practices and procedures followed by the BCCI³.

The Lodha Committee in its report dated 14 July 2015, declared punishments for Mr. Meiyappan and Mr. Kundra⁵; they were also debarred from participating in any cricket-related activities. Their respective franchises, Rajasthan Royals and Chennai Super Kings, were suspended for two years from participating in the IPL⁶. On 18 December 2015, the Lodha Committee awarded a clean chit to Mr. Raman for his role in the scandal and recommended key reforms to be made to the BCCI (the 'Lodha Committee Report').

The Lodha Committee recommendations

The Lodha Committee Report recommends the legalisation of betting in cricket. According to the Lodha Committee, match/spot-fixing interferes with the integrity of the game and attempts to change the course of the match, while betting only serves as a general malaise that is indulged in by different sections of society. Hence, they should be treated differently. Betting can be dealt with effectively with a robust legal framework. Whereas, issues of match/spot-fixing must be rendered an unpardonable criminal offences, punishable by law.

According to the Lodha Committee, legalising betting in a manner akin to that of the UK will have long-term beneficial effects to the game as well as to the Indian economy. The Report states that the worldwide legal sports betting market is worth over \$400 billion. Juxtaposing both the interests of cricket by ensuring transparency and protection of players along with the interests of the economy, it is in the best interests of all parties to legalise betting in cricket.

The Report contemplates: the issuance of licences to betting houses and players; in case of violations - the cancellation of licences as well as penal sanctions; a regulator to issue licences, monitor betting houses and players; and the establishment of strict KYC norms for players. Betting by administrators, players, match officials, team officials, owners, et al. will continue to be an offence under the BCCI and IPL rules and regulations. With regards to the currently ill-equipped regulatory environment concerning betting, the Report emphasises the need for:

- A dedicated, special investigation wing of the police: a precautionary unit against any violations and an investigative unit

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to pursue allegations or complaints;

- The sharing of databases of bookies, fixers et al. by the BCCI with the players and team officials in good faith so as to warn them of any suspicious practices; and

- The obligation on employees, consultants and other persons associated with the governance or management of the BCCI to inform the regulatory bodies of any undesirable activity which could have a bearing on the game or the functioning of the BCCI.

Observations

In addition to the Lodha Committee's recommendations, the legal and regulatory framework for sports betting may work effectively if some additional steps are taken. Firstly, there is a need for a unified central/federal law in India. Under the Indian Constitution gaming and gambling is a State issue. With the advent of digital platforms, it is getting trickier to apply State laws to the digital space. The Information Technology Act, which covers the digital space, and anti-money laundering laws of India are federal statutes. In the case of Sikkim online licences, there has been conflict with federal and other State laws. Some of the federal laws will have to be amended.

Secondly, the legal/regulatory regime will benefit if Indian regulators establish collaboration agreements with foreign regulators to establish robust laws, frameworks and information-sharing mechanisms and the like.

Thirdly, the betting community should also adopt self-regulation, which should enhance responsible gambling.

Fourthly, various payment options that are developing in India will have to be revisited to make sure that the framework adapts to ensure that money

laundering doesn't take place on betting websites.

Fifthly, the tax laws are at present very vague in regards to the taxation of winnings, which acts as a disincentive for players to play through normal banking channels.

Lastly, even if betting is legalised, insofar as foreign operators are concerned, their entry into India will still be restricted unless the Foreign Direct Investment Policy of India is amended. At present any foreign direct investment or foreign technology collaboration in the gambling sector is prohibited. If sports betting is widely held to be a skill-based game, then there is hope of change in this regard. This will also benefit Indian companies looking to license sophisticated foreign technologies for fraud detection, identifying problem gambling or money laundering, and similar activities.

The Indian government ought to review and implement the recommendations set out in the Report sooner rather than later. Of course, it will require establishing the entire machinery as discussed above. This will not be possible unless a dedicated task force is established which should include industry representation as well.

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1. <http://www.ficci.com/pressrelease/1377/ficci-press-release-justice-mudgal-on-sports-betting.pdf>
2. <http://www.livemint.com/Politics/f2oolKBuBu1UOObZCpxNsK/Betting-should-be-legalized-says-Mukul-Mudgal.html>. See also, <http://www.deccanherald.com/content/504724/mudgal-repeats-call-legalise-betting.html>
3. *Ibid*, paragraph 109.
4. See para 109, Board of Control for Cricket in India v. Cricket Association for Bihar and Ors, 2015 AIR (SCW) 2258.
5. <http://www.firstpost.com/sports/ipl-betting-full-text-lodha-panels-verdict-chennai-super-kings-rajasthan-royals-2342310.html>
6. *Ibid*.