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The Indian Sports Act was a long awaited requirement for the promotion of Physical Fitness, Mass Participation and promotion of Sports in India, since long. When I had first talked about the enactment of and Indian Sports Act, in 1993 in a Seminar organised by the, “National Association for Physical Education and Sports Sciences” at Patiala. Some of the senior persons of the Lakshmibai National College of Physical Education, Tiruvandrum, criticized me a lot.

Latter the public at large, the Members of Parliament, Sport Persons and even the Judiciaries were commenting for the enactment of a Sports Regulatory Authority in India. Because, it was a general feeling that only the Sports is a field which is dominated by the non professionals and unqualified people at large. Where as other profession, like Medical is being controlled by the Doctors, under the Medical Council of India Act; science and technology is being controlled by the Technocrats from the field of Science and Engineering under the provisions of All India Technical Education; Advocates are being controlled by the Bar Council of India Act and Advocates Act. Unfortunately, for the Indian Sports it remained the bureaucrats either from IAS / IPS / IRS cadre who are dominating the Indian Policy Makers, Department of Sports, Ministry of Youth Affairs & Sports, Sports Authority of India and or State Sports Departments. Even the Vice-chancellor of the Central Government Institute of Physical Education, which is a premier Institute of Physical Education in India, is Ex-Army personnel.

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When I first met the young and student leader turned politicians, Minister for Youth Affairs and Sports in his chamber on 16<sup>th</sup> February 2011, to invite him to grace the occasions of R. K. Jain Sports Law Lecture and Seminar. I had a positive sign, when, I heard from him that on 20<sup>th</sup> February 2011 the ministry will upload the Draft National Sports (Development) Bill 2011 for inviting the comments and suggestions from the public at large.

I, had a vision that the proposed draft National Sports (Development) Bill 2011 will contains all the aspects of promotion of Physical Wellbeing and Sports promotion as a whole, looking to the Demarcation of Responsibilities in Government of India has allotted the list of subjects to the various ministries under the provisions of the, “Government of India (Allocation of Business) Rule, 1961. The two hundred ninety fifth amendment, 2009 of the Government of India (Allocation of Business) Rule, 1961 has been enlisted the following Responsibilities to the Department of Sports under the Ministry of Youth Affairs & Sports : -

1. Sports Policy;
2. National Welfare Fund for Sportspersons;
3. National Sports Fund for Pension to meritorious Sportspersons;
4. National Sports Development Fund for Sportspersons;
5. Laxmibai National Institute of Physical Education;
6. Sports Authority of India;
7. World Anti Doping Agency;
8. State Sports Academy;
9. National Dope Testing Laboratory (NDTL);
10. National Anti Doping Agency (NADA);
11. Matter Relating to Indian Olympic Association and National Sports Federations;
12. Participation of Indian Sports Teams in tournaments abroad and participation of foreign Sports Teams in International Tournament in India;
13. National Sports Awards like Rajiv Gandhi Khel Ratan Award, Dronacharya Awards, Arjun Awards, Dyahnchand Award for lifetime achievement in Sports and Maulana Abul Kalam Azad Trophy to winner University;
14. Special Awards to winners in International Sports Events and their Coaches;
15. Sports Scholarships;

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16. Sports Matters relating to Union Territories;
17. Scheme Related to Talent Search and Training;
18. Rural Sports Programme;
19. Promotion of Sports and Games in Schools;
20. National Championship for Women;
21. Physical Education (excluding Yoga and Physical Education in Schools / Colleges);
22. Hosting and Conduct of the 2010 Commonwealth Games;
23. Scheme for preparation of Indian Team for Commonwealth Games, 2010 and
24. Exchange of Sportspersons, experts and teams with foreign countries.

But, when I saw the uploaded bill – 2011, it was shocking bill to me as a professional of Physical Education and Sports since past 24 years and a Sports Person since from my child hood. The whole Draft National Sports (Development) Bill 2011 was only restrained to a single motive by the bureaucrats of the Department of Sports, Ministry of Youth Affairs & Sports. How to capture the National Sports Federations and Indian Olympic Association. So that all the office bearers of the NSO and IOA shall bow their head before them as is being done by the Head of the Institutions of the Central Government Academic Institutions, like Lakshmibai National Institute of Physical Education ( Deemed to be University), Gwalior.

The above list were allocated to the Department of Sports, Ministry of Youth Affairs & Sports in view of the Comprehensive Sports Policy 2007, circulated vide the Ministry of Youth Affairs & Sports for the Public Comments, had been completely ignored except to the list No. 11.

The Comprehensive Sports Policy 2007, which had laid the emphasis on, “Sports, Games and Physical Fitness have been a vital component of our civilization, as is evident from the existence of the highly evolved system of Yoga and a vast range of highly developed Indigenous Games, including Martial arts” were completely ignored in the Draft National Sports (Development) Bill - 2011

**Several Important Issues of The Sports Policy 2007.**

The Sports Policy 2007 also laid emphasis on the recommendation of the International Charter of Physical Education & Sports, UNESCO 1978 that states, “Every human being has a fundamental right of access to physical education and sport, which are essential for the full development of his personality. The freedom to develop physical, intellectual and moral powers through physical education and sport must be guaranteed both within the educational system and in other aspects of social life.”

Serious concern at this state of affairs had been expressed by various Parliamentary Committee Reports. **The Standing Committee on Human Resource Development in its Thirty Fourth Reports (1995)** on India’s performance in International Sports made wide-ranging observations and recommendations, including the following:

- \* “it should be our objective to see that every child takes part in Sports and Games”
- \* “coupled with the absence of sports consciousness and culture in the country, there is almost total lack of sports infrastructure at the grassroots level all over the country”
- \* “the Government should plan the development of sports in a phased manner so that necessary infrastructure is built up over a period of time”
- \* “In view of the decentralization of resources to Panchayat, Government should ensure that there is a sports complex in each Panchayat which should also hold sports competitions and championships periodically”
- \* “There is also need for scouting talent at an early age and select them on scientific basis....Panchayat bodies should take up this responsibility”.

Despite the passage of more than a decade since these observations were made, there has been little progress made in taking organized sports and games to children in rural India or in involving Panchayat in the promotion of such sports and games.

The **Parliament Standing Committee on Human Resource Development** studied a wide range of issues concerning Sports in **1998** and emphasized the need for bringing about reforms in sports management and governance in order to make it more dynamic, responsive, responsible and result-oriented. Some of the major problems identified by the Committee include

- \* the lack of sports culture in the country;
- \* the non-integration of sports with the formal education System
- \* the lack of coordination between all stakeholders;
- \* the inadequacy of sports infrastructure;
- \* the inadequate participation of women in sports; and
- \* the lack of effective sports systems for talent identification and training and fair selection of teams.

Notwithstanding some progress in filling these lacunae, the validity of these observations remains and much more needs to be done towards fulfilling these objectives.

Against the background of Government's decision with effect from fiscal year 2005-06 to shift the responsibility for financing rural sports infrastructure entirely to State Governments, the **Department Related Parliamentary Standing Committee on Demands for Grants (2006 - 07)** of the Ministry of Youth Affairs and Sports, in its 176th Report laid in Parliament, pointedly recommended that the Ministry should provide "funding for rural sports infrastructure development to patronize the rural sports under its direct supervision".

This recommendation was similar to the recommendation of the **Working Group on Youth Affairs and Sports for the Formulation of the Xth Five Year Plan** which, while referring to thrust areas for the Plan, observed that "There is an immediate need to create a network of basic sports infrastructure throughout the country" and ensure proper access to it "to enable more people to participate in sports thereby broadening our base for scouting of talent."

The same point was elaborated upon by the **Working Group on Youth Affairs and Sports for the Formulation of the XIth Five Year Plan** which emphasized the need to strengthen the institutional framework for the development of sports in the country. It states that “In order to develop a comprehensive framework for the development of sports in a holistic manner, it would need to be seen in a three fold perspective – the development of sports and physical education as an essential ingredient of youth development and the promotion of a sports culture in the country; broad-basing of sports in the context of the new dimensions that sports as an activity, per se, has acquired and the opportunities that it would provide for our youth; and promotion of excellence, particularly with reference to competitive sports at the international level.”

Physical Education and Sports have been receiving support under successive Five Year Plans, but received attention as a subject of *policy* only after India hosted the IXth Asian Games in 1982. The **National Sports Policy, 1984** was the first move towards developing a conducive policy framework for the development and promotion of sports in the country *The policy emphasized the need to develop Sports infrastructure and make Physical Education and Sports an integral part of the school curriculum.* This resolve was reiterated in the **National Policy for Education (NPE), 1986**. In the context of preparations for the NPE, Prime Minister Rajiv Gandhi, speaking on 31 March 1986 at the National Primary Education Conference, had declared:

*“Mere book learning does not develop character. It is formed through different regulated activities, through sports and playing in a team or playing by oneself.”*

The 1984 National Sports Policy recognized that mass participation in physical education and sports cannot be achieved without the creation of basic sports infrastructure at the grassroots level. Accordingly, it emphasized the need to have a time-bound Programme for the creation of basic minimum sports infrastructure and the preservation of existing playfields and safe open spaces for sport activities, if necessary by suitable legislation.

In 1992, an Action Plan was devised in the shape of the National Sports Policy, 1992 to move towards realizing the objectives of the 1984 Policy. However, the experience of implementing the 1984 Policy has not given the anticipated outcomes the priority objective of the National Sports Policy, 1984 – namely, *the creation of basic minimum sports infrastructure and the preservation of existing playfields and safe open spaces for sport activities, if necessary by suitable legislation* - remains far from being realized. National Sports Policy 1984 and the National Policy for Education 1986.

Information secured from the University Grants Commission indicates that only 30 million of a total of about 210 million school and college-going children, adolescents and youth are provisioned with facilities for physical education, sports and games. As regards children, adolescents and youth who are not in educational institutions, it has been estimated that the total population of those below the age of 35 is of the order of 77 crore, of which only around 5 crore have access to organized games and sports facilities. As regards the provisioning of space for playgrounds and the preservation of existing playgrounds, the National Sports Policy 1984 emphasized the importance of this and recommended legislation, if necessary, to secure this objective. No such legislation has been brought on the statute books. In contradistinction, China, which has emerged as a leading-edge sporting nation over the past few decades, has 37 percent of its population, which comes to about 480 million citizens, actively participating in physical education and sports activities. There are over 3,50,000 popular sports instructors. Even as far back as the year 2000, for which information is readily available, China had over 40,000 grassroots level sports associations, 3854 urban community associations, 2000 community sports institutions, and over 1,00,000 part-time sports instructors, besides an incredible 6,20,000 sports facilities spread across the country. Even a small country like Cuba, whose population of about 11.5 million is comparable to that of NCT Delhi, boasts approximately 2 million athletes, of whom 23,000 are in the high performance category in

38 different sports disciplines at the national and international level. The Cuban Sports Model is built on the belief that physical education and sports serve to develop the social, mental, physical and intellectual dimensions of an individual; and in doing so enable the individual to contribute on a sustainable basis to the development of the state and the nation. With the sports culture permeating every aspect of Cuban society, national athletes are folk heroes and

receive national recognition and lifetime financial support. Retired athletes receive a high salary for life and other support and they, in turn, contribute to the national sports system as sports activists or volunteers. Currently, there are over 1,20,000 retired sportspersons, apart from another 48,000 professionals, engaged in delivering sport and physical education at home, community, school and college, and workplace in Cuba. Cuba spends about 13 per cent of its national budget on sports and related activities. The outcome in terms of excellence in sports is

The **National Sports Policy 2001** was focused on the twin objectives of “Broad-basing of Sports” and “Achieving Excellence in Sports”. On the broad-basing front, the policy emphasized that the primary responsibility for the creation of sports infrastructure at the grassroots level and the promotion of rural sports lies with State Governments. The policy also underlined the role of Panchayat Raj Institutions (PRIs), Local Bodies and Local Clubs in promoting sports culture at the grassroots level. As regards the promotion of excellence in sports, the policy emphasized the role of the Indian Olympics Committee (IOC) and National Sports Federations (NSFs) in strengthening talent identification, athlete development and competition systems. The policy explicitly stated that the Union Government shall only play a supplementary role in regard to promoting excellence in sports, the primary responsibility vesting in IOA and NSFs. In spite of these policy statements and the efforts made so far, we are still lagging far behind in emerging as a sporting nation. Compared to China, for example, or even Cuba, sports in India is neither broad-based nor significant in terms of proven excellence. This is a matter of great concern, especially since India is a country of young people with children, adolescents and youth accounting for about 77 per cent of the total population

The **Comprehensive National Sports Policy 2007** aims at building on previous sports policies with a view to accomplishing the unfinished agenda and addressing the emerging challenges of India in the 21st century. The 2007 Policy fully recognizes the contribution of physical education and sport to personal development, especially youth development, community development, health and well-being, education, economic development and entertainment; and in the promotion of international peace and brotherhood, which is the spirit of Olympism. The Comprehensive Sports Policy seeks to address the following deficiencies in the country’s sports development system:

- \* access to sport and physical education opportunities still remains highly inadequate, especially in rural areas and the poorer parts of urban areas;
- \* in consequence, the levels of participation in sport and physical education at home, school, college, the community level and the workplace are abysmally low;
- \* the participation of girls and women in physical education and sports is far below that of boys and men;
- \* persons with disability have hardly any access to sporting facilities and most of the sports infrastructure is not disabled friendly;
- \* indigenous sports and games need to be brought centre-stage in the promotion of a national sporting culture;
- \* education remains highly academic-centric with a definite trend towards reducing school sports and extra-curricular sports;
- \* India's performance in international sport needs to be significantly enhanced through a holistic and sportsperson centered cradle-to-grave sports policy;
- \* to this end, and within the framework of the Olympic Charter, the Sports Authority of India, the Indian Olympics Association and the National Sports Federations need to be revamped, rejuvenated and reoriented to function in an open, democratic, equitable, transparent and accountable manner;
- \* as there is too much concentration of resources and public support on too few team sports like cricket, there is need to popularize other sports, especially medal-intensive individual sports disciplines such as athletics, gymnastics, and swimming;
- \* sports medicine and sports science need particular attention;
- \* the scientific and technical support systems for high performing athletes are insufficient;

- \* the disgrace of sportspersons and athletes resorting to drug abuse needs to be ended as a matter of priority with strict adherence to the Copenhagen Declaration adopted by the World Anti-Doping Authority (WADA) and the UNESCO Convention against Doping in Sports;

- \* public as well as private and voluntary support for participative/ recreational and competitive sport has been highly inadequate; and

- \* there is not enough synergy, coordination and purposive follow through

# within the Union Government

# between the Union and State Governments

# between State Governments and units of local self government, that is, the Panchayats and Municipalities;

# between Government and the Corporate Sector;

# between Government, on the one hand, and the National Sports Federations, the Indian Olympics Association and the Sports Authority of India, on the other.

To this end, the Comprehensive Sports Policy dedicates the nation to:

- \*\* creating an enabling policy environment that encourages and assures mass participation in sports and physical education for health and well-being, personality development and recreation; and

- \*\* achieving excellence in sports by exponentially increasing the numbers of sportspersons and athletes who perform consistently well and excel in competitive sports at the highest national and international levels.

## **OBJECTIVES AND STRATEGIES**

In response to the call of “Sports for All” within the framework of the revised Twenty Point Programme, 2006:

\*\* provide universal access to sports and physical education for all classes of citizen, in all segments of society and across all age groups for physical well-being or recreation and personal or community development;

# provide for substantially enhanced public investments as a fundamental requirement for the time-bound establishment of basic but extensive sports infrastructure along with trained supervisors and organized sports management arrangements, including trained supervisors, in all rural Panchayat and urban neighbor hoods throughout the country, leading to the establishment of a National Sports Infrastructure Grid extending from the community level in Panchayat and Municipalities to block, district, state, metropolitan and national levels, backed by sports medicine and sports sciences. The Sports Authority of India will be required to reorient its approaches by providing sports infrastructure support, talent identification and training support, coaching support and scientific and technical backup support to these endeavours.

# encourage the corporate sector, both public and private, and civil society in general, including charitable organizations, to participate in augmenting the sports infrastructure in rural and urban areas.

The Draft National Sports (Development) Bill 2013 is an old wine in new bottle. After being defeated first at the Cabinet level, when the Cabinet of the UPA Government it self did not approved the old Draft National Sports (Development) Bill – 2011. Second the International Olympic Committee imposed ban on the Indian Olympic Movement of the collective action of the Government of India and Delhi High Court by Petitioning a Public Interest Litigation being filed by one Mr. Rahul Mehara as a ghost of the Government of India's bureaucrats. The present Draft National Sports (Development) Bill - 2013 in one way or another had only stressed on the control of the Central Government on Olympic Movement of the India. Where as, the Olympic Movement is a globally organized action comprising entities and individuals that collaborate to promote the philosophy and values of modern Olympism and to bring together the world's athletes at the Olympic Games and other international sporting games held under the patronage of the International Olympic Committee (the "IOC").

Modern Olympism was conceived by Pierre de Coubertin in June 1894: Olympic Charter "is a life philosophy which draws together sport, culture and education in the aim of creating a harmonious balance between body, will and mind".

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Fundamental Principles of the Olympic Charter. Other sporting games patronized by the IOC, include: the Commonwealth Games, the Paralympics Games, the Pan American Games, the Asian Games, and the Summer and Winter Youth Olympic Festivals

The Olympic Charter is the supreme law of the Olympic Movement. Where the Olympic Charter conflicts or contradicts with the statute of one of its constituents, the former takes precedence. The Olympic Charter also serves as the statutes of the IOC.

The Olympic Movement is comprised of four main constituents: the IOC, International Sport Federations, national Olympic committees, and Organizing Committees for the Olympic Games.<sup>96</sup> Governments and other public entities cannot be members of the Olympic Movement.

### **The International Olympic Committee**

The IOC is the supreme authority of the Olympic Movement. It is an international non-governmental not-for-profit organization, of perpetual duration, that is recognized by the Swiss Federal Council as a legal person. Its legal seat is in Lausanne, Switzerland. It is the exclusive owner of the Olympic Games and all trademarks, copyrights, and other intangible properties associated with the Olympic Games.

Members of the IOC include active athletes, presidents or executives of international sport federations and national Olympic committees, but the majority of members are not linked to any specific function or office. Importantly, each IOC member is a representative of the IOC in their own country, rather than a delegate of a country to the IOC. Further, no member is permitted to accept from his or her own government, any mandate or instructions that would interfere with his or her freedom to act or vote for the IOC.

Under the Olympic Charter, the IOC is assigned several roles, responsibilities and powers. A central role is the protection of the independence of the Olympic Movement. Broadly speaking, the Executive Board is responsible for the administration of the IOC and the management of its affairs. More specifically, it is responsible for deciding which specific disciplines or events of a sport will be included in the Olympic Programme. The decisions of the Session and the IOC Executive Board are final, except for any appeal that may be available to the Court of Arbitration for Sport.

## **International Sport Federations**

International Sport Federations (“IFs”) are international non-governmental organizations that are responsible for administering one or several sports at the world level. The vast majority of IFs are private associations under the laws of a European country, predominantly Switzerland. Each IF is responsible for the technical control and direction of its sport at the Olympic Games.

To be included in the IOC Movement, an IF must meet two requirements.

First, an IF must be recognized by the IOC as the governing federation of one or more sports.

Second, the statutes, practices and activities of an IF must be in conformity with the Olympic Charter

## **National Olympic Committees**

National Olympic committees (“NOCs”) are representatives of the IOC in a participating nation. NOCs are all private, not-for-profit corporations. NOCs carry out several specific roles and functions related to the Olympic Movement, three of which are noteworthy.

First, NOCs have the exclusive authority to represent their respective countries at the Olympic Games and at any other sporting games patronized by the IOC.

Second, NOCs decide upon the entry of athletes to the Olympics or other sporting games patronized by the IOC, as proposed by their respective national sport organizations. Third, NOCs have the exclusive authority to select and designate a city in their respective countries to apply to organize and host the Olympic Games. Similar to IFs, NOCs must comply with the Olympic Charter and their statutes are subject to the approval of the IOC.

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The members of each NOC must include the IOC members in their country, representatives from national sport organizations affiliated with IFs governing sports included in the Olympic programme, and active or retired Olympic athletes. As representatives of the IOC, NOCs are required to preserve their autonomy and independence from their respective national governments. Further, where the constitution, laws or regulations of country of a NOC causes the activity of the NOC “to be hampered”, the IOC may suspend or withdraw the recognition of that NOC. Governments or other public authorities are not permitted to designate any members of a NOC

### **National Governments**

The role of national governments in the Olympic Movement is very limited. Most states have recognized the private autonomy of the Olympic Movement and, as a result, have deferred to the authority of the Olympic Charter and the IOC to govern the Olympic Movement. In some countries, such as Canada, Germany and the United Kingdom, deference to the regulatory autonomy of the international non-governmental bodies that comprise the Olympic Movement is illustrated by the absence of legislation governing domestic sport bodies; whereas, other countries, such as the United States, France, Greece and Malaysia, have incorporated the privatized regulatory hierarchy of the Olympic Movement into their legislation

### **Sports Dispute Resolution**

Disputes in sport are inevitable. They occur both on and off the sporting field and involve a diversity of subject matters, including athlete eligibility and selection, doping infractions, the reviewability of decisions made by match officials, and commercial agreements. Further, with the expansion of international sport, both in terms of the number of athletes and countries that participate in the Olympic Movement, combined with the growing commercialization of sport, it is unsurprising that the resolution of legal disputes has become an integral part of the architecture of the international sport system.

Historically, the majority of sport disputes have been resolved by private bodies, such as regional and national sport organizations, international federations, and the IOC. Courts in Canada, the United States, the United Kingdom, Australia and elsewhere, have been reluctant to intervene in such disputes for a variety of reasons. Nafziger states that there are three primary reasons why courts will exercise restraint when adjudicating sport disputes.

First, courts are generally unfamiliar with the subject matter and structure of sports bodies and, as a result, will often defer to dispute resolution within a sports body. As a private body whose authority is based on a contractual relationship with its members, a sport organization exercises regulatory authority over a specialized field, providing it with a high level of expertise.

Accordingly, when reviewing the substance of a sport body's decision, a court will typically not engage in a thorough analysis of its reasonableness. For example, when making determinations regarding the selection of athletes for international competition, a sport body may rely on a number of subjective and objective criteria. In such cases, a court does not have the appropriate level of expertise to conduct a full rehearing or appeal of the matter on the merits. Similarly, with respect to matters of natural justice, courts will often defer to the more informal procedures of sport bodies, so long as such procedures provide a measure of protection against biased decision-making and ensure a fair hearing.

Second, with respect to the reviewability, on-field or technical decisions made by game officials, there is an enduring philosophy that the rules of the game should settle disputes rather than the rules of court. The rationale for this position is that the "rules of law" do not extend to field-of-play decisions and, therefore, cannot be used to overturn the decision of a match official or alter the outcome of a sporting event. Instead, any error made in the course of a field-of-play decision may only be remedied by the corrective mechanisms, if any, provided for in the "rules of the game" themselves. This qualified immunity of on-field decisions is further supported by that a court's lack of expertise in the technical side of sport, the inherent subjectivity of on-field decisions, and the problems of rewriting a sporting result after the event.

Third, the autonomous and transnational nature of international sports law has persuaded courts to defer to the private regulatory authority of international non-governmental organizations within the Olympic Movement. For instance, where challenges have been brought against the decisions or rules of the IOC, courts have refused to intervene through the application of their own national laws.

Together, these three reasons underlying the reluctance of courts to intervene into the affairs of sport bodies have facilitated the delocalization of dispute resolution within international sport. Courts are far more comfortable with allowing private sport organizations, which arguably have superior expertise and, in some cases, clearer jurisdiction, to resolve sport disputes involving their members. The remaining part of this section will outline the delocalized systems of dispute resolution at both the national and international levels of sport. It will conclude with a more detailed analysis of the structure and functions of the Court of Arbitration for Sport.

At the national sport level, there are two main types of dispute resolution:

(1) appellate review within sport bodies, and

(2) sport-specific arbitration by independent arbitration panels With respect to appellate review, many regional and national sport organizations provide mechanisms for the resolution of disputes arising from decisions or actions relating to team selection, discipline, funding, and the interpretation or application of technical rules. The review process is governed by the appeal provisions found in the sport body's policies or regulations, which generally set out the grounds for an appeal, review procedures, and the composition of the reviewing body. The grounds for an internal appeal are typically narrow, but generally permit review on the basis that a decision was made in excess of jurisdiction or contrary to principles of natural justice.

Appellate review mechanisms within sport bodies have been very effective in ensuring that sport disputes are resolved outside of court. Athletes and coaches are generally precluded from challenging the decisions or actions of their sport body in court without first exhausting any available internal appeal remedies. Even once an internal appeal process is exhausted, a court's ability to interfere with the decisions of a sport body is limited to a narrow scope of review and a deferential standard of review.

In the case of sport federations, a number of IFs require their member national sport federations to include a clause in their statutes that provides that all disputes arising from the IF's technical rules must be submitted to the jurisdiction of an internal tribunal, thus precluding recourse to ordinary courts. Independent sport-specific arbitration has been operating in the United States since 1978 and in the People's Republic of China since 1995. The United Kingdom, Australia, New Zealand, Japan and Canada, have all introduced independent, sport-specific systems of arbitration in the last decade. The decisions of most of national sport-specific arbitration systems are "final and binding" on the parties, subject only to judicial review before a domestic court. However, some national arbitration systems, such as the Sports Dispute Tribunal of New Zealand, allow their decisions to be appealed to the international Court of Arbitration for Sport. Further, all doping disputes involving international-level athletes must be appealed exclusively to the Court of Arbitration for Sport.

### **The Court of Arbitration for Sport**

The Court of Arbitration for Sport ("CAS") was created by the IOC on April 6, 1983, pursuant to Swiss law. As Anderson notes, the impetus behind the establishment of CAS was the IOC's realization that, despite its worldwide appeal, neither its own National Olympic Committee nor the rest of the Olympic Movement enjoyed any immunity from national jurisdictions. Simply put, CAS was intended to serve as an independent authority specializing in sports-related disputes and authorized to pronounce binding decisions.<sup>268</sup> In many ways, CAS has surpassed this role. The Swiss Federal Tribunal, for example, has recognized CAS as the "true Supreme Court of world sport", that "freely exercises juridical control over the decisions of the associations which are brought before it", and whose decisions are "to be considered true awards, equivalent to the judgments of State courts.

### **Enforcement of CAS Awards**

CAS awards are final and binding on all parties. However, because the seat for all CAS arbitrations (regardless of their actual location) is Lausanne, Switzerland, Swiss municipal law governs all arbitration proceedings. Accordingly, pursuant to the *Swiss Federal Code on Private International Law*, CAS awards are amenable to judicial review by the Swiss Federal Tribunal on very narrow grounds. A CAS award may not otherwise be appealed to, or judicially reviewed by, another national court.

The seat of CAS arbitrations also means that a CAS award is a foreign arbitral award in all countries, except Switzerland. As a foreign arbitral award, CAS awards may be judicially recognized and enforced in all countries that have ratified the New York Convention. Under the New York Convention, only the Swiss Federal Tribunal has the authority to set aside a CAS award.

However, a national court may refuse to recognize and enforce a CAS award if doing so “would be contrary to the public policy of that country.” But, as Mitten notes, CAS awards are generally legally recognized and enforced by nation-states and, to date, attempts to challenge their enforcement have been unsuccessful.

## CONCLUSION

The globalization of sport has shifted the legal regulation of the international sport system almost entirely outside the jurisdiction of national legal systems and into the private sphere of international and national sport bodies and sport-specific arbitral tribunals. This has allowed the international sport system to develop into a self-contained and self-reproducing system of private transnational law.

With this autonomy have come fears that the international sport system is not subject to adequate legal regulation. Arguably such fears are exaggerated since they assume that national legal systems are the only authorities capable of effectively regulating international sport bodies and the development of global sports law. However, in an era of globalization, it is inappropriate to rely on national legal orders to regulate social systems that are inherently transnational in their structure and operation. Instead, private centralized forms of legal regulation need to be considered, particularly those that already exist within the international sport system. For example, the Olympic Charter is used as a code of conduct to regulate members of the Olympic Movement. Over time, it could develop into a universal code, provided that international sport federations outside of the Olympic Movement are persuaded to adopt it. Most importantly, the intervening authority of sport arbitrators needs to continue to develop through a universal *Lex-Sportiva*.

The Government of India thus redraft the National Sports (Development) Bill 2013 in more vigorous manner to cover all the aspects of the list of responsibilities assigned to it under the provisions of the Government of India (Allocation of Business) Rule 1961 (Two Hundred and Ninty Fifth Amendment, 2009). Thus enacting the provisions of the Indian Sports Services to control the Sports Administration in the Department of Sports, Ministry of Youth Affairs & Sports and others by the Academically and professionally qualified personnel, enacting the provisions of Mass Participation of the people in Sports and Physical Fitness Programmes, enacting the provisions of compulsory Sports Infrastructures in the Schools, Colleges, Universities, Housing Societies, Civil Bodies etc. Even the promotions from lower grades to upper grades shall include the Physical Fitness Battery in studies and services. The Practice or profession as Physical Education Personnel, Coaches, Fitness Trainer, Life Guard etc, shall be under the norms like BCI, MCI, AICTE or other professional Councils in India.

Only the professionally qualified, Physical Education Academicians and Sports Personalities with Law Graduation shall be given the responsibilities to draft the proposed bill for the cause of Comprehensive Development of Physical Education and Sports at grass root level in India.

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