

INDIA ADR WEEK DAY 4: DELHI

Understanding Sports Arbitration

2:30 PM To 4:00 PM IST

MODERATOR

Mr. Manmeet Singh - Partner, Cyril Amarchand Mangaldas

SPEAKERS

Mr. Harish Salve KC - Barrister, Blackstone Chambers

Mr Karan Bharadwaj - Chief Strategy Officer and Head, Legal, JSW Sports

Ms. Kirtan Prasad - Counsel, RPC Legal

Mr. Nakul Dewan KC - Senior Advocate, Twenty Essex

Ms. Vandana Gupte - General Counsel, Reliance Sports and Entertainment

1 **HOST:** We will be starting with our next session. Our next session is hosted by Cyril
2 Amarchand Mangaldas. The topic of the session is, “Understanding Sports arbitration”. The
3 session will be moderated by Manmeet Singh. The panellists include Harish Salve, Karan
4 Bharadwaj, Kirtan Prasad, Nakul Dewan and Vandana Gupte. I request the speakers to kindly
5 come on stage. Thank you.

6 **MANMEET SINGH:** Good afternoon, everyone. I would like to thank MCIA for organizing
7 this panel on a really interesting and upcoming area of law. In this panel, we'll be discussing
8 broadly three themes, various mechanisms for dispute resolution in the sports world and the
9 growing role of arbitration. The implications of the National Sports Governance Act 2025
10 which has just been enacted. The potential for conflict between Lex Sportiva and National law.
11 And if time permits, of course, we'll touch upon a bit of cricket. I will now very quickly
12 introduce the panellists. Our first panellists is Mr. Harish Salve. He needs no introduction to
13 the participants in this room, but I will still do, my role. Mr. Salve is one of the world's leading
14 international commercial Counsel. He is not just a senior advocate, but also a King's Counsel.
15 He has led on some of the most important commercial, constitutional and tax matters in the
16 Indian Supreme Court over the last few decades. He was formerly also the Solicitor General of
17 India. In 2025, he was awarded the Padma Bhushan. Mr. Salve has very kindly agreed us to
18 join us for some time to share his thoughts on this very interesting topic.

19 On my left is Karan. Karan is the Chief Strategy Officer and Head Legal JSW Sports, where he
20 leads the legal function and also looks after the long term strategic vision of the group across
21 new business ventures and athlete development. He works closely on media rights, team and
22 player acquisitions, and commercial transactions, and athlete endorsements.

23 Then I have Ms. Kirtan Prasad. She's a Counsel with RPC Legal London. She's an experienced
24 commercial and financial disputes lawyer with experience spanning multiple industry sectors,
25 including finance, automobiles hotels, shipping, and sports. She represents clients before
26 English Commercial Court and has experience of arbitration across institutions as well as ad
27 hoc arbitrations.

28 I have Mr. Nakul Dewan sitting on her left. Nakul has a diverse multi-jurisdictional arbitration
29 and commercial litigation practice. He is also a senior advocate and Kings Counsel. He has
30 extensive experience in commercial disputes across various sectors including banking and
31 finance, construction, corporate hospitality, media and telecom, mining, energy and of course
32 he's done a lot of sports arbitration work as well.

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1 Then on the extreme left is Ms. Vandana Gupte. She's the General Counsel of Reliance Sports
2 and Entertainment. She has more than three decades of experience, including legal practice
3 before the Bombay High Court and then thereafter as an In-house Counsel. Over the last 14
4 years, she has been shaping the legal strategy for the sports vertical of Reliance Industries. She
5 was part of the structuring and launch of the Indian Premier League and the Indian Super
6 League. She leads the legal team for a portfolio of Reliance Group Companies covering a range
7 of sports.

8 So we have a very interesting panel to help us understand a very interesting topic. Moving on
9 to a discussion for the day various National Sports Federations in India use the court of
10 Arbitration for sports as an appeals mechanism from internal dispute resolution bodies, while
11 others continue to rely on internal committees and procedures though not necessarily for
12 disputes. Mr. Salve, starting with you. In your view, what drives the choice between arbitration
13 and internal mechanisms for resolution of core sports disputes? We know you've done a lot of
14 these disputes, is it purely about maintaining control, or are they considerations about cost,
15 speed and expertise at play?

16 **HARISH SALVE KC:** I have mixed views about this. But the trouble is sports now has
17 become a very fun... I don't mean it in a Jorte sense, a very commercialized activity. Sport no
18 longer enjoyed is the joy of sport. I had this live experience when I was appearing before the
19 IOC and I realized how it grew... Question was whether the young lady had been rightly
20 disqualified. And it was very interesting that the people who functioned as the referees came
21 and said we don't do paperwork. We know what we are doing. Yes or no decision on the spot.
22 And take a football match, when its playing and it is a yes or no decision on the spot. And back
23 in the days when we used to play cricket there was no electronic facility to see the trajectory of
24 the ball, delivery with the ball. Everybody accepted what the empire said. So, there was faith
25 in the integrity of the system, and sports stood for integrity. Today ecosystem requires sports
26 to be regulated and ethics and integrity to be injected into sports, and I think maybe the time
27 is right to do so. Because there is so much money riding on the sports. So it's a changed
28 ecosystem, and I suppose we all have to learn to live with it now. We had this expression, right?
29 "This was not cricket", it was an idiom. When somebody didn't behave properly, it was said,
30 this is not cricket. Can we use that today with a straight face? I don't think so.

31 **MANMEET SINGH:** Thank you, Mr. Salve. Ms. Gupte, as a General Counsel, when you are
32 structuring various Contracts, how do you evaluate the effectiveness of different dispute
33 resolution mechanisms? How do you make a choice between whether to go in for arbitration,
34 court litigation or other dispute resolution mechanisms, say mediation? So what goes into the
35 considerations while structuring the dispute resolution clauses?

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1 **VANDANA GUPTE:** So, first of all, thanks a lot for the generous introduction. I hope I live
 2 up to it in the next couple of hours. Hi, everyone, good afternoon. And thanks to Manmeet for
 3 inviting me here. And I'm really privileged to be sharing a panel with such a distinguished
 4 professionals. Now, coming to your question, I think there are a couple of questions rolled into
 5 one, so let me just unpack them one by one. So I think the first question you asked is about
 6 how do you evaluate effectiveness, right, of dispute mechanisms? So what we do, yes... When
 7 we enter into a Contract, apart from the rights we purchase or the investments we make in the
 8 sports. One of the questions that we always ask ourselves while drafting is, what if something
 9 goes wrong? And how are we going to manage this? So the answer is not automatic or there is
 10 no one formula. It depends on the nature of the deal. It depends on how fast you want the
 11 resolution to be and such things. So according to me, it boils down to four things: speed,
 12 enforceability, cost, of course, and also the impact on relationships, which is also very
 13 important in the sports ecosystem. So arbitration, for example, is speedy most of the times.
 14 While Court Litigation is long protracted, so it depends on how fast we need the answer.
 15 Enforceability is also very critical factor to assess effectiveness especially if you have cross
 16 border transactions. The choice is only arbitration, and we usually fall back on the
 17 international arbitration institutions. And, of course, for Domestic Contracts, we then would
 18 lean on the Arbitration Act itself. Most of our Contracts have, Domestic Contracts have
 19 Arbitration Act because the courts are also supportive of the Act, and it's a tried and tested
 20 procedure also for most of the Parties. And, of course, the cost is also very important, critical
 21 factor to actually decide the effectiveness, because unless you are really, the Contract value is
 22 high stake, it makes no sense to go in for arbitration which, it would outweigh the cost of the
 23 arbitration would outweigh your contractual values. So we take all this. We try to balance
 24 between money, value and also how relationship are impacted. Because in sports especially,
 25 relationships matter because we come into contact with the same sort of partners, the same
 26 investors, season after season, tournament across tournament. So as far as possible, we try not
 27 to take up an adversarial position. And so, in such cases, dispute resolution on amicable basis,
 28 we give a lot of importance to that. And we always have a tiered sort of mechanism where the
 29 first step would be negotiation between the business teams. If that doesn't work, mediation
 30 and ultimately, if nothing works, of course, you have to go in for arbitration or Courts. So it is
 31 actually stress testing the mechanism. I mean, evaluating the effectiveness is actually putting
 32 it to a stress test. So that is something that we have to just cleverly manage all this when we
 33 are drafting the Contracts. I think there was a second point that you were...

34 **MANMEET SINGH:** The second point was, what do you use most commonly. What do you
 35 end up using most commonly?

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1 **VANDANA GUPTE:** Yeah. So most commonly, I think predominantly, most of the Contracts
 2 have arbitration. So whether it is domestic, Contracts or whether they are cross-border. Cross-
 3 border, though I don't think we have any other option because the Courts... I mean, it's very
 4 unlikely that any foreign entity would agree to jurisdiction of Indian Courts and also the
 5 enforceability becomes a problem. So majority of even Domestic Contracts submit to
 6 arbitration but interestingly now many Parties have come forth. Like my experiences, they
 7 have asked us to submit the Contracts to Courts, maybe because of the cost factor, because
 8 they're very conscious of the... arbitration is very expensive. So if it is a lower stake Contract,
 9 it makes no sense to bleed yourself on arbitration and erode your commercial value. So, I think
 10 though most of the Contracts submit to arbitration, Courts are also as relevant today. And
 11 internal mechanisms don't work for commercial disputes like committees or internal because
 12 commercial disputes have to go to a neutral Party, so impartiality is also a very important
 13 factor. And there's one more factor which Parties often consider while going to arbitration is
 14 also confidentiality. Because Courts are very public. We don't want reporters sitting at the
 15 bank benches taking copious notes for headlines of tomorrow. So that is also one of the, in my
 16 experience, a major ask from Parties.

17 **MANMEET SINGH:** When you say costs become an important factor, do you think the
 18 approach of Indian Courts of finding ways to interfere in an arbitration process is part of the
 19 issue? Why arbitration costs are high?

20 **VANDANA GUPTE:** Sorry, you mean if the interference of the Court under Section 34 or...?

21 **MANMEET SINGH:** There are various slayers, right? It starts with the appointment of the
 22 panel itself.

23 **VANDANA GUPTE:** Yes.

24 **MANMEET SINGH:** Now, of course, there have been some judgments which have reduced
 25 the scope for interference there. But do you think at various levels, the scope for interference
 26 is what is driving up the cost for arbitration?

27 **VANDANA GUPTE:** Yes, it could be because it also becomes more lengthy. The process goes
 28 on and on because even I have personal experience where arbitration is supposed to be a fast
 29 track resolution mechanism, but it's going on for year. Because as I said, it starts from giving
 30 a notice, asking there is a lot of negotiation with the Parties on the Arbitrator. It goes to the
 31 court, as you say, and there are many dealing tactics also that are usually practiced. And, yes,
 32 and especially in sports, what happens is that time is really critical because seasons are
 33 launched at a particular time. Matches are scheduled at a particular time. Leagues are like,

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1 seasons are also, like, predetermined, so there's no use if you ask for a dispute resolution and
2 you get resolution after a season is over and you're not being able to exercise any rights at all,
3 so it just refutes the purpose then.

4 **MANMEET SINGH:** Thank you so much. Karan, coming to you. JSW is associated with
5 several sports, including athletics. What has been your experience of use of arbitration in
6 sports in India, whether it be Court sporting disputes or commercial transactions? Have you
7 seen better and faster outcomes?

8 **KARAN BHARADWAJ:** So thanks everyone for having me part of this panel, this team
9 panel here. I believe I'm part of the audience as much as everyone else here, just with a front
10 row seat. Just thought, I'll take you back around 30 years ago when I was a professional athlete.
11 I played for school, college, club level, state level. The Public Sector Units were the only sort of
12 professional outfits where we used to try to play for a job. We used to get paid in cash, so we
13 didn't have any dispute resolution mechanisms or any such frameworks back in the day for
14 unpaid dues. So I think sport has come a really long way since that time, and I'm really happy
15 to see that. I think over a period of time, arbitration has sort of become the established
16 mechanism for dispute resolution. In our experience as well Ms. Gupte touched upon time
17 being the essence. Sorry... time being the essence, so I think we've also been on a few
18 arbitration matches, which have been fairly efficient, fairly quick. And I've got the dispute
19 resolved within time frame. Being franchise and team owners, I think it's in the best interest
20 of us to have our best players on the pitch, sporting performance also sort of impacts
21 commercial performance. I mean, that's the hard reality also of the beast, so thank you.

22 **MANMEET SINGH:** Kirtan, coming to you, from your perch where you see disputes across
23 sports and across jurisdictions, what are the advantages you see of choosing an institutional
24 mechanism like CAS, the Court of Arbitration for Sport?

25 **KIRTAN PRASAD:** Because we're at an MCIA session, I think, we all need to sing for our
26 supper and say institutional arbitration is always the answer to everything. But leaving that
27 aside, I mean, stepping back, there are two types of spotting disputes. The pure commercial
28 disputes where, you know, it's sponsorship rights, television rights, brand logo rights, right?
29 And then you have the pure sporting decisions, which is your on field decision, player
30 discipline, doping. And then there's arguably a category which comes in between the two,
31 which is ownership rights which affect players and where they play. And how they play for the
32 pure commercial disputes. As Ms. Gupte said, I think any institutional arbitration would do
33 increasingly in our practice, we're seeing a lot of people ask for non-sporting institutions like
34 the LCIA, particularly for transatlantic deeds and things of the sort. And then, on the other

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hand, you have the pure sporting disputes. This is where an organization like CAS really comes into its own and becomes very important. What is CAS? CAS was originally set up by the IOC for Olympic disputes and with a view to standardizing sporting results overall. Long story short, now CAS is governed by a much more independent body because there were challenges to the IOC's level of interference and control over the Sport Resolution mechanism. So now it's sort of run by ICAS. But CAS has four divisions, if you will... The first one is to use a core analogy, original jurisdiction where matters where contracts and other agreements actually provide for arbitration to be resolved under CAS. The second is an appeal procedure, so you have various federation rules etc., which provide for a first level decision making and if that doesn't work, then you appeal to the CAS. Then you have the doping body, which basically governs the doping rules. And then you have lots of *ad hoc* panels, which are set up for specific sporting events like the Olympics, like the Commonwealth Games, like the Asian Games, which also CAS helps govern. For the pure sporting bodies, as Ms. Gupte said, time is, Ms. Gupte said time is of the essence when you're looking at Sponsorship League etc. But when you are challenging an on field decision, time is all the more of the essence. So the timeline in a CAS arbitration is actually 24 hours. 24 hours for the dispute, for you to put in your complaint, constitute the Tribunal, hear your submissions and have the decision out. So it's emergency arbitration on steroids. If you will. So it's not just appointment within 24 hours, but everything done within 24 hours. And for that the fact that you have a sitting body of people and panels who are aware with all of this and you've got it sort of set up on the sidelines of a tournament, a challenge is very helpful. CAS also is seated in Switzerland with appeals to the Swiss Federal Tribunal. Some people say it's helpful because they hear a lot of sporting disputes. So as a Court of Supervisory Jurisdiction, they are more familiar with dealing with these sorts of matters.

The factors that militate against CAS is, it adds another layer of decision making for appeals, effectively. So you've got effectively the Federation's decision then you've got the appeal to CAS and then you're going to Court and then you've got the court appeal procedure so it adds another layer. The other one is cost, actually, because if you're looking at the average consumer of sports arbitration, it is the average sportsperson. Not all sports, and certainly not all sports people are well funded and well resourced. It takes a lot of time, resource, and sometimes a lot of emotional effort on the part of these individual sports people to go through the entire process. And CAS has sometimes been seen as a bit of a distant organization, particularly if you are an aspiring athlete from a developing country. I think in the ***Caster Semenya*** case, for those of you who remember the South African athlete with the hyper androgenization, or what the World Athletics Federation calls it, disorders, a sexual development issue. There were three medallists in the Rio 2016 Olympics. She was the only one that appealed it. Despite all

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1 three actually being affected by the guidelines that the WA set. So those are sort of some of the
2 pros and cons of CAS.

3 **MANMEET SINGH:** In fact, you brought up an interesting point of it may seem distant for
4 athletes coming from the developing countries, does therefore, CAS offer an equitable forum?

5 **KIRTAN PRASAD:** I think, is sports arbitration an equitable forum, is a complete question
6 mark. Because these individual sports people quite often actually, the most vulnerable people
7 in the entire sporting infrastructure is the individual sports person. And they are very
8 dependent on their entire ecosystem to push them, whether it is their Federations, whether it
9 is their managers, whether it is their National Olympic Association, etc. So generally, sports
10 arbitration requires a whole load of people to throw their weight behind the individual sports
11 person to go through. I mean, for commercial disputes, it's much more straightforward, right?
12 It's like any other commercial arbitration. It depends on the parties themselves and their
13 equality of bargaining power, etc.

14 **MANMEET SINGH:** Sure. Thank you. Nakul, you have acted on large broadcasting disputes.
15 Are you seeing more commercial disputes being resolved through International Commercial
16 Arbitration?

17 **NAKUL DEWAN KC:** Thank you for the question, Manmeet. Let me first thank Cyril,
18 Amarchand Mangaldas and MCIA for hosting this great event and for inviting me. But I'm
19 going to take cue from what Mr. Salve said when he started this session, and if I was to just
20 paraphrase it, he said, you've got to accept that in sports today, the commerciality of sports
21 today is a reality, and we've got to accept that. And one of the reasons why the commerciality
22 of sports would become a reality is because of broadcasting. So I actually did some research
23 and there's a survey that's been done by Deloitte and Google for India, and it seems to suggest
24 that by 2030, sports in India is going to be \$130 billion industry, of that broadcasting is going
25 to grow approximately at 11% CAGR from now, all the way until 2030. I mean, that's
26 staggering. Now, we all know that when a commercial industry grows, disputes grow along
27 with it. So certainly, I can see a lot of broadcasting related disputes coming into play. I mean,
28 let's just take a simple example, right? I mean, I've done quite a few of these broadcasting
29 disputes over the years. I mean, the nature of broadcasting has changed. What used to be
30 television broadcasting is now broadcasting over the Internet. You've got mobile phones. I
31 mean, we've got a population of 1.46 billion, lots of people have mobile, smartphones. I mean,
32 cricket, which is, I think, the largest sport in our country. It's certainly a relevant sport when
33 it comes to broadcasting and there are people who are fighting for their rights. Now, there are
34 broadcasting disputes which are based on a particular tournament, which, as Ms. Gupte said,

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1 need to be resolved immediately. Okay, then there are broadcasting disputes which relate to a
 2 particular season. Most of the disputes that I have actually done actually related to cricket, but
 3 there are other sports which actually take place in our country. And unfortunately, some of
 4 them fail because they don't get the money. There's been a failed experiment with tennis. That
 5 led to a broadcasting dispute because rights had been given away but the league failed. So
 6 again, it isn't always necessary that the more money you put into sport will necessarily lead to
 7 greater disputes. Sometimes the sport just doesn't get the money, but it's gone ahead and sold
 8 rights, and that can certainly lead to a dispute as well. And this is not just a trend in India. I
 9 mean, if you look at the PGA Live Golf tie up, which was I mean, which was, which had now
 10 happened I mean, they're, one of their largest points of dispute was, in fact, related to the
 11 broadcasting of Golf all over the world when they were looking at that merger. And again, that
 12 led to a dispute. So, yes, I certainly see that the way sport grows to the degree that it's going to
 13 grow, there are going to be more and more broadcasting disputes.

14 **MANMEET SINGH:** Thanks Nakul. Mr. Salve, coming back to you. You recently led for the
 15 Indian Olympic Association before the Court of arbitration for Sport relating to Vinesh
 16 Phogat's disqualification. How was the experience of CAS as an institution and of CAS
 17 procedures?

18 **HARISH SALVE KC:** Before I answer your specific point, Manmeet, I want to use my grey
 19 hair to give a little stair to this conversation. I don't think we should be speaking in the same
 20 breath about commercial dispute resolution and sports dispute resolution. So let's define our
 21 premise. Today the kind of disputes which one I spoke about, the disputes about broadcasting
 22 rights, dispute about team ownership, disputes about today, teams are property. And I don't
 23 think there's any difference between the commercial dispute between two people claim
 24 ownership of shares of IPL team or to people who claim ownership over the rights of a, right
 25 to use a Footballer in their league or something. Unfortunately, we have dehumanized
 26 sporting, and it has helped improve the quality of sport because to bring in such large sums of
 27 money, you have to dehumanize it. So we have dehumanized it. We've made into corporate. I
 28 mean, who would think that a company like Reliance would have a vertical for sports? So that
 29 by that from that hangs the tail. But let's not get into those areas at all, because those are
 30 straightforward commercial disputes. They will be dealt with in accordance with any
 31 commercial disputes. Fighting over shares of a company is fighting over shares of the
 32 company. It doesn't matter if it's a company which runs a league or it's a company which
 33 produces Aluminium. The real sensitive area about which there is a lack of understanding is
 34 resolving disputes between sports persons and between sports persons and sporting
 35 organizations who conduct the event. **Semenya** was a case of that. And incidentally,
 36 **Semenya's** dispute was not with any sports person. **Semenya's** dispute was with the way

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1 the rules had been framed, where certain female athletes were compelled to take certain
 2 medicines to reduce their testosterone levels if they were to compete as women. And it was
 3 accepted by the Olympic Body that they had no established test results of the long term effects
 4 of those injections which they were forced to take or they were supposed to take in order to
 5 qualify. That went up and the Olympic system upheld it. It was finally taken to the European
 6 Court of Human Rights, which turned it around and said, sorry, you cannot do this. So these
 7 are a very different kind of disputes. Or the one which Phogat had. And the way that exposed
 8 the manner in which these disputes are resolved. That poor child was sequestered in the
 9 Olympic Village. Now, for good reason, the discipline is in the Olympic Village, nobody's
 10 supposed to come and meet you. But then she was approached by some friendly people who
 11 told her, we will get you a bunch of lawyers. They got a lawyer for her who had not even
 12 interviewed her. The defence, which they ran for her was that she was unaware of the weighing
 13 procedure. When she went into the witness box, the first question she was asked is how many,
 14 you fought so many, in so many events, don't you know you have to be weight shed? She said,
 15 of course, I know, I have to weight shed. And she was asked, don't you know if you're
 16 overweight, you'll be disqualified? She said, of course, I know that. So there went my full
 17 defence down the tube. And by the time they didn't allow the Indian Olympic Society to
 18 intervene. By the time we got our foot on the door, it was too late.

19 The other way is the manner of selection of the Arbitrators. I'm not commenting on the
 20 decision in that case, suffice to say, we had some good legal points, but they didn't get resolve
 21 in a manner which I would consider satisfactory. Doesn't matter who won, who lost. At the
 22 end of the day, that poor child came out feeling that she had lost an opportunity unfairly. Now
 23 in today's day and age, of course, you need a specialized dispute resolution mechanism. It
 24 cannot become formal. You cannot apply the same rules to that dispute resolution as you
 25 would to commercial disputes which may impinge on sporting, which arise out of sports
 26 events. Broadcasting rights are pure property rights. But the disqualification of a child, of a
 27 sportsperson or the results of a tournament, if they give rise to a dispute and so much today
 28 rides your whole reputation, your career, your professional rides on that dispute. That dispute
 29 resolution cannot follow either the timelines of commercial dispute resolution or the formality
 30 of commercial dispute resolution. And so you need to think outside the box to find a credible
 31 institutional mechanism by which no athlete should walk away feeling that because of
 32 nationality, because of colour of skin, because of gender or because of any such circumstance,
 33 that athlete has been shortchanged.

34 **MANMEET SINGH:** Thank you, Mr. Salve. For everybody's benefit, Mr. Salve also led for
 35 athletics sports for South Africa in the *Semenya v. Switzerland* case, and so we're going
 36 to come back to you on that. Now, moving on from this theme to the implication of the National

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1 Sports Governance Act, which has just been enacted for sports disputes, particularly for
2 arbitration. And Mr. Salve, what do you think, in your view, are we headed in the right
3 direction? Is tribunalization the answer for sports, what this act proposes is a National Sports
4 Tribunal with Civil Court powers, headed by a retired judge, with government representation
5 and an appeal to Supreme Court? Mr. Salve, is this the right way forward in your view, for
6 sporting disputes, particularly core sporting disputes?

7 **HARISH SALVE KC:** I don't think sporting disputes would be before this Tribunal. There
8 is a provision, Section 20, which says any dispute which falls within the exclusive jurisdiction
9 of the internal dispute resolution of a national sports body, any other Tribunal, international
10 Federation or Court of Arbitration Sports, Lausanne. So all your core sporting disputes are
11 out. I don't know what this Tribunal is really going to decide? And this is entirely my personal
12 view, and I take full responsibility for saying this in public, the moment I see a Tribunal
13 presided over by retired Judge, I lose faith. Because he has seen far too often. If commercial
14 dispute resolution in India is floundering as against where it is in other jurisdictions. We know
15 why it is. So, I don't mince my words when it comes to this... I have had the privilege of now
16 being in England for ten years, practicing there and working in their Courts, working in their
17 legal system. And it's a very different mindset which we need to bring to bear. So having a
18 retired Judge and then having a Statutory Tribunal, Statutory Tribunal means it to be subject
19 to judicial review under Article 226. I don't know where this is all going to end up. So, the
20 Indian and the problem in India is not the law, the problem in India and I make bond to say if
21 arbitration is floundering in India because Indian Judges are over interventionist. Look at the
22 English law. Look at the English Arbitration Act. There are far greater powers in the English
23 Commercial Court to interfere, right from the time a Tribunal is constituted, the Tribunal's
24 jurisdiction, questions of law before ongoing, in ongoing arbitrations and to interfere with an
25 award. And see the number of cases where the English Court actually steps in. And look at how
26 narrow our Parliament has been trying to make judicial intervention and see how our courts
27 sit and redesign cases including now the new super jurisdiction of the Supreme Court and
28 Article 142, where in a curative they sit in appeal over an award and have the liberty to come
29 and findings which are contrary to the findings of the Arbitral Tribunal. So in India, arbitration
30 is a disaster, and I make no bones about it. You're lucky if you get it done quickly and I keep it
31 below the radar. I have seen what happens to big arbitrations in India. Don't even get me
32 started. So, let's keep the focus on Sports Dispute Resolution. I don't think this Tribunal is
33 really what we are talking about i.e. a Tribunal of credibility to decide disputes between
34 sportspersons and sports organizations and disciplinary issues of disqualification, etc.

35 **MANMEET SINGH:** Do you think this then creates more of a residual jurisdiction to the
36 extent something is not covered by internal committees?

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1 **HARISH SALVE KC:** I don't know, I've had some location, I don't prefer to be a super
2 specialist in Sports Law, but I have had some occasion for the last 20 years to be dealing,
3 including, back in the day, election disputes in the Olympic Association, etc. And I've seen
4 some of these issues. I really don't know what dispute should be decided by this Tribunal.

5 **MANMEET SINGH:** Thank you.

6 **HARISH SALVE KC:** Because if you see the exclusion in '20, the rules cover pretty much all
7 the matters which are otherwise there.

8 **MANMEET SINGH:** Yes, but it does talk about sports related disputes, so it'd be very
9 interesting to see how this evolves. It does, as you're rightly pointing out, carve out certain
10 kinds of sporting disputes which are subject to the rules of any international federation rules
11 of CAS and even internal rules of sporting federations in India. So it'll be interesting to see
12 what this covers. Clearly the government does want this Tribunal to look after certain kinds of
13 disputes. But as Mr. Salve said, tribunalization may not be the answer. Nakul, coming to you
14 on this while we are discussing the statute. Do you think the provision there about sports
15 related disputes, somebody is going to be get creative and stretch it to commercial disputes
16 and bring up the issue of arbitrability?

17 **NAKUL DEWAN KC:** I can't help agree with what Mr. Salve said. And he said, I don't know
18 what this Tribunal is going to decide. So, when you actually put that question to me, I looked
19 at the Act and I said, I honestly don't know what this Tribunal is going to decide. Because if
20 you've excluded sports disputes, then are you really going to be looking at disputes which relate
21 to elections of a particular body? I'll give you an example in the Supreme Court of India, I think
22 right through 2023 till close till 2025. You have had a dispute related to the election of the
23 AIFF and you've had a committee that's been formed by the Supreme Court, which has now
24 started looking into determining whether or not the governing, the rules are all right, whether
25 those require to be changed, what the election rule should be, who should constitute the AIFF,
26 etc., etc., etc.? Now, if you're looking at taking those disputes out and sending it to the
27 Tribunal, that's one thing. But those are not sports disputes. Those are administrative disputes
28 in relation to sports bodies. So if that's the interpretation that Section 20 is going to lead to,
29 then we have some sense of where this is going to go. Are you going to be able to take a
30 commercial dispute out of it? I think that, again, is going to be a stretch because I think, as Mr.
31 Salve said, at the end of the day, a broadcasting dispute... So again, I mean, a broadcasting
32 dispute is nothing else but a commercial dispute. It's based on a Contract, and there's no
33 reason why the Parties would not be asked to follow their contractual mechanism for the
34 resolution of such a dispute?

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1 **MANMEET SINGH:** So, the jurisdictional hook in the Act appears to be sports related
2 disputes, and that's the exact same expression which is used in the CAS Rules. So it'll be
3 interesting to see how the jurisprudence evolves around this. But given that, there is a lot laid
4 out about how the sports federations are to be governed in the statute. I think what you
5 probably identified as the residuary category maybe that's what the disputes related to internal
6 election.

7 **HARISH SALVE KC:** Sorry to intervene, sorry to intervene, but one important thing which
8 you need to debate is. Does this law prevent the Supreme Court from writing up constitutions
9 for sports bodies? Be it the BCCI, be it the AFFI.

10 **MANMEET SINGH:** Mr. Salve, you are the best advice to, best situated to advise us on that.

11 **HARISH SALVE KC:** Because if it doesn't, then the law should be amended to provide that
12 each sports organization towards elected committee will have the right to decide who's on the
13 committee and how it should be run. Not by saying that there be expert committee constituted
14 by Supreme Court and then people will give objection, and then the Supreme Court on the
15 judicial side will decide what should be the constitution of a sports organization.

16 **MANMEET SINGH:** The Act does go some way in this direction, it does set out who is to be
17 on the committee and how many members, when, what the composition would be. So maybe
18 Supreme Court would start holding off after this.

19 **HARISH SALVE KC:** Yes. Now it speaks of the National Sports Board, but I don't know
20 whether it says that the Indian Olympic Committee and it should have gone further and said
21 the Board of Cricket Control and the Football Federations, they all are democratically elected
22 bodies. They shall have the right to set up their own constitution.

23 **MANMEET SINGH:** Nakul. Sorry, you were saying something.

24 **NAKUL DEWAN KC:** I don't have a mic that works. But I don't have the grey hair which
25 Mr. Salve has, so I have to be a little more careful with some of my comments on stage. I think
26 it's very fair to say that tribunalization hasn't been the most effective, right? And certainly if
27 you get retired judges to helm a body, in particular a sports body, where they apply their
28 experiences in court to determine a sports dispute, I don't think you're doing sports persons
29 too much of a favour. Because they've really never been at the helm of affairs in figuring out
30 how sports disputes have to be adjudicated. So that's one little marker that I think is important
31 for us to put here. If you do think that your sports federations are not being well run, and that's
32 the reason why you want to create an independent body of adjudicators who will, without fear

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1 of any favour, adjudicate a sports dispute, then certainly you must look at a very different
2 composition for such a body.

3 **MANMEET SINGH:** So while we are on that, Mr. Salve, I know you will have to leave at
4 some point. So I will put this question to you first. The Government of India has been wanting
5 to develop India as an Arbitration Hub. And that's been the stated policy, of course I think the
6 Government does do a bit of flip flop at times, but that's the broad overall policy. There have
7 been unsuccessful attempts in the past to set up an Indian Institution for Sports Arbitration.
8 Given the exponential growth of sports in India, do you think the time has now come for an
9 India Arbitral Institution to adopt specialized rules for sports arbitration on the likes of CAS
10 and become a viable alternative, at least as far as domestic tournaments and leagues are
11 concern concerned?

12 **HARISH SALVE KC:** I think this law does not do so, but we should expressly provide and
13 again borrow Nakul's word, choosing my grey hair to say things which he would be embarrass
14 to say. It should be a judge proof law which provides for setting up of an organization for
15 resolving sports disputes. It should identify the people. It would identify who will appoint
16 those people. And especially for the CAS, the Government should appoint people. Because the
17 statute should set out what their qualification should be. They should be sportspersons. If it is
18 a football dispute, there should be people coming from the sport of football, if it's a cricket
19 dispute, coming from that. If it is... Other gymnastic or other dispute, it should be people
20 coming from that calling, and they should be asked to decide, the Government will nominate
21 because the Government has no stakes in the matter. And that decision should be final and
22 not subject to judicial review. And this should be made very clear. And I think there is a need
23 for that today to have a CAS like system, if sports in India is really going to grow and be
24 streamlined and be made transparent.

25 **MANMEET SINGH:** Taking notes somewhere. So Karan, coming to you. From an industry
26 perspective, how would you view this new Act and what do you think would be the impact of
27 this Act on sports governance and sports disputes?

28 **KARAN BHARADWAJ:** Thanks, Manmeet. We have around, I think, 57 National Sports
29 Federation is registered in India. You see quite a few of these number of federations within
30 one sport cropping up because of the commercial nature that it is today. I think one way is this
31 Act may sort of bring it all together in terms of best practices. But my real question would come
32 with the IOC charter, which sort of clearly outlines that government interference within sport
33 is to be kept away. So I think that is something that is a question that would need to be
34 answered. I know in the UK and Australia, they do have such Acts, but it's only related to

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1 funding, not related to oversight over elections committees, etc. So I think maybe taking cue
2 from best practices there would really help. I think that's something to, and I think the intent
3 around it is important. My being an ex-athlete, I always feel that rather than try and control
4 sport, I feel such mechanisms should support sport. I think that's the key here.

5 **MANMEET SINGH:** That's a very interesting perspective. Don't regulate, but support.
6 Nakul, coming back to you. Given that there are parts of broadcasting aspects which have a
7 public law element to it. Do you think such disputes should be resolved by a private arbitration
8 process? There's certainly some public interest involved in broadcasting, particularly in a
9 country like India, which is there's a lot of interest to do with sub-sports, at least. Do you think
10 a private arbitration process is appropriate?

11 **NAKUL DEWAN KC:** Can I have a mic? Yes. Now it's working. Let me give you a slightly
12 different example. I'm going to give you a non-sporty example. And if you agree with me on
13 that, I think you will agree with me on the answer that I'm going to give you. So about 15 or 18
14 years ago, there was a dispute related to a West African country which had had massive water
15 problems. And it was also in a massive financial deficit. So it got funding from the World Bank
16 and one of the conditions of funding was in relation to repairing its water system and its sewer
17 system. And again, the condition of that funding was that if there was any dispute with, relating
18 to the water system, which then had to go to a private agency, it would be resolved by
19 arbitration. Now, we know water is critical. We realize that the sewer system in any city is
20 critical. And there was certainly a dispute, and that dispute went into arbitration and it got
21 resolved. If a dispute of that magnitude can be considered as commercial for the purposes of
22 resolution through arbitration because it relates at the end of the day to funding that's come
23 in, then surely broadcasting rights are nothing else but a commercial dispute. So, yes, there
24 may be viewers that there are lots of viewers in India, but at the end of the day, that public
25 interest is in entertainment. It's not in something like water or the sewer system. So, I mean,
26 in my view, broadcasting disputes still have to should go to arbitration and they can't be made
27 the sphere of a writ petition that gets filed in a Court under Article 226 or a writ petition under
28 Article 32 for the purposes of saying that it's the Courts which must determine how
29 broadcasting rights must be interpreted.

30 **MANMEET SINGH:** Thank you. Now, moving on to next theme, which is ***Lex Sportiva***
31 ***versus National law***. There is some conflict which exists and there is some tension which
32 exists between Lex Sportiva and National law. Lex Sportiva is really the law of sport, developed
33 by decisions of institutions such as CAS and the basis for it is that how sports courts are to be
34 interpreted. There has to be consistency about it. Now, coming to you, Kirtan. What are some

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1 of the challenges you see in enforcement of CAS decisions because of this issue and if you have
2 any views on the decision of Court of Justice in Royal Football Clubs Seraing?

3 **KIRTAN PRASAD:** Thank you. I think there are two broad areas in which a Sport Law
4 typically comes into conflict with national or supranational legislation, and that's competition
5 law and human rights. I won't go into human rights in much detail, but **Castor Semenya's**
6 example is a good one, the general gender sexual disorder rules are a good one, which is, it's
7 why must athletes be forced to inject themselves in order to compete in a certain category and
8 there's also the broader social question, why does world athletics get to decide what is woman
9 enough? What level of testosterone is effectively to be the woman enough? So there's that. But
10 the other area, where it quite often comes into conflict with Sports Law *per se* is the area of
11 competition law. And more often than not, it involves ownership rights rather than pure
12 sporting rights. The case that you mentioned, which was **RFC Seraing**, which is a Belgian
13 Football Club was basically the club challenging third party ownership restrictions and
14 regulations which were brought into being by the FIFA Association. This was then went
15 through the entire appeals process. There was CAS, and then there was an appeal to the Swiss
16 Federal Tribunal, which upheld these 30 rules. But a separate appeal was then launched before
17 the Belgian Courts, which are an EU Court. The outcome of that is that CAS is subject to the
18 jurisdiction of the Swiss Courts. It goes up to an appeal to the Swiss Tribunal, but under the
19 treaty for the European Union, European Courts have the last right of review to decide matters
20 in relation to matters of European law. There is an element of nuance around that decision.
21 It's not all matters of European law, but they found that there were certain aspects of
22 arbitration in sports, like mandatory arbitration, which meant that it was all the more
23 important for a European Court to retain the final right of judicial review in respect of a
24 decision. They also said that when the European Court is reviewing this arbitration decision
25 it's not going to be a de novo review they are only going to look at the point of European law.
26 But nevertheless there is a niche area of where which has now come into conflict with CJEU
27 jurisprudence because the Swiss Courts are not European Courts. The CAS has floated various
28 options to get around this problem. They have suggested CAS with a Dublin seat because the
29 Courts of Dublin, Ireland would then become a European Court in order to get around the
30 problem effectively. So competition is one area where you frequently find that it comes into
31 conflict with National law. Although I think the **SERAING** decision is a very uniquely
32 European problem, and even within the European system as I said, if you read the decision,
33 they've put in place lots of caveats there. So I don't think it's of necessarily wider panic or an
34 alarm, a cause to wider panic or alarm. But in areas like human rights, you can see how several
35 national legislations could come into conflict with sports, Lex Sportiva, as you put it.

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1 **MANMEET SINGH:** Nakul, coming to you. In your view, what should prevail when there is
2 a conflict and is there a way to balance the two?

3 **NAKUL DEWAN KC:** So again, Manmeet, on this question, first, I must confess that I have
4 absolutely no personal experience. Because I've never really had to deal with a real life case
5 relating to an issue where the Lex Sportiva comes in conflict with a domestic legislation. But
6 again, I'm going to take cue from what Mr. Salve said, you cannot let an athlete feel that they've
7 been shortchanged. Now, two examples which I actually did look up, and I thought they
8 actually made the point which I think is the relevant point to consider is one an example of a
9 French FIFA player who challenged the restrictions that were there on his transfer, and the
10 European Court of Justice took the view that, well, at the end of the day, you could not have
11 provisions which would restrict your transfer because that was a basic violation of Labour
12 laws. Now, yes, it may beg the question that if you're earning £500,000, a week, or sometimes
13 more than that, whether you ought to be governed by labour laws? But here's what it is. I mean,
14 the athlete felt that there had to be greater freedom as to transfer. And the athlete got that,
15 right? Another example that I did look up was in relation to a German Speed Skater who, in
16 relation to a CAS ruling, said, I want a public hearing because I want my case to be heard
17 publicly. And the German Constitutional Court said, yes, we uphold that right. Again, because
18 I think the athlete was of the view that they shouldn't be shortchanged in a closed door process.
19 And when you have conflicts such as this, I certainly think that these laws, which are there to
20 protect the athlete, which may be slightly better when you're looking at, or I wouldn't say
21 better, but laws which are which... I mean, the law of the land. I mean, if it offers a better
22 protection to an athlete should certainly take precedence over what may otherwise be a
23 contractual right that an athlete may have entered into without really realizing the
24 implications of their right.

25 **MANMEET SINGH:** I think that's an interesting debate, whether you put the athletes rights
26 front and centre because without commercial interests at play, sports would not be and would
27 not grow to the next level, particularly in a country like India. So I think that debate continues,
28 that tension remains. Karan, from your..

29 **NAKUL DEWAN KC:** I must confess, and I'm 20 years ago, when I used to write a lot, I was
30 actually writing for a Golf magazine, and Tiger Woods has just come onto the scene, and I
31 actually wrote an article on this, is it Tiger Woods... is Tiger Woods, has Tiger Woods made
32 Golf? What it is? Or has Golf made Tiger Woods? What it is? And I can tell you that article
33 never got published.

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1 **MANMEET SINGH:** Karan, from your perspective, when you're advising on sports
2 investment supplier Contracts, how do you look at this issue and how do you account for
3 potential divergence?

4 **KARAN BHARADWAJ:** I think typically with regards to player, coach and technical
5 matters, we sort of rely on the arbitration. Because generally, as sports franchises and team
6 owners, we sign up to the regulations. The players do sign up to the regulations. So it's that
7 competent authority that we trust in terms of resolving any such disputes. We had sort of, one
8 matter that sort of I dealt with where essentially there was something similar to what Nakul
9 had pointed out with the *Bosman* case. Essentially, the player was out of Contract however
10 the previous club demanded a transfer fee from us or a release free from the player, which, as
11 per FIFA statute is not valid. The previous club took the matter to Court. We needed the player
12 registered in time for that window. Because our season was impending. We took the matter to
13 AIFF within two weeks, of course, they added a lot of tactics to delay this matter. AIFF
14 transferred the legislation which was held by the previous club and essentially I guess they
15 kind of came to their senses to realize that that's not the right way to go. So, I think having that
16 right adjudication with regards to sporting matters is key and we trust the arbitration system.
17 One interesting thing that I wanted to bring up with our sort of varied sports that we have. I
18 think football has some really good regulations in terms of the internal mechanisms with the
19 AIFF player status committee. Then you have the FIFA DRC, and then finally CAS. As it'll be
20 very interesting, and it would be good to see that in other sports as well, cricket being one,
21 because now cricket, you have such a divergent, you have multiple leagues, multiple formats.
22 Players bouncing from one place to another. Whilst the ICC does have a Dispute Resolution
23 Committee, in our experience there's no one place that we can go to in case a player breaks a
24 Contract. So I think having some uniformity across it, best practice would be, would be really
25 crucial.

26 **MANMEET SINGH:** Thanks, Karan. Ms. Gupte, my next question is for you. From a
27 contractual perspective, which aspects of sports related Contracts do you see more disputes in
28 and how do you therefore mitigate them while contracting?

29 **VANDANA GUPTE:** For sports, since I'm speaking from a commercial lens, there is not
30 much difference between the hotspots for the sports related commercial dispute and other
31 standard commercial disputes. So the common ones are, I think the most prominent one is, of
32 course, outstanding payments. Because that is one of the major worries in any Contract
33 because there are a lot of reasons for outstanding payments. Maybe there is a dispute over
34 whether the rights have been delivered. Whereas one Party says the rights are delivered, the
35 others say they haven't received what it was committed. So sometimes it is just plain like

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companies, brands wanting to wriggle out of their payment obligation. So I think the most important concern, the most key concern is payment obligations. When you think about like from the sports, there's also termination also... Sometimes Termination Provisions also give rise to conflicts. Because usually what we do is, especially with sponsorships and other partners, we do our best to tie them up, lock them up for whatever the term they've submitted to in the Contract. But in my experience, many times after the first year, they tried to wriggle out this unauthorized exit, and then we have to fall back on how clear the Termination Clause is for them. So that is one hotspot I would see. From the commercial and business side, exclusivity is also one major area of concern because you see, I'm again giving the example of sponsorships. Exclusivity for a sponsor is one of the key factors in associating with any sports property. Because the basic intention of sponsorship is promotion and no brand wants any competitor to be also associated with the property. So most of the major chunk, I would say, of the rights' fee is quoted taking into consideration this exclusivity. And suppose tomorrow, there's some ambush marketing which the sports property cannot control or there is some ambiguity in the sort of exclusivity and product category that is committed to the sponsor. These things give rise to dispute. So this is one major hotspot I would say for sports related... Then, of course, infringement of IP. That also gives a lot of further because everyone is using each other's masks. So, it has to be used in the right way and also. There may be some breaches of warranties, that the marks are owned by a certain property, there may be claims on it. So this is also one of the major concerns. But I would say it is payment obligations that is the main critical. Yeah.

MANMEET SINGH: Thank you so much. I think we have some time left and we'll quickly touch upon cricket. Now, cricket is going to be part of LA Olympics 2028, and by virtue of that, it will have to submit to the jurisdiction of CAS. I think that gives rights to certain interesting. Implications, considering that cricket is one major sport, which has so far been beyond the purview of CAS, and therefore there will be some fundamental changes. Karan, you briefly touched upon this. What are the practical implications of having cricket operate under different frameworks and do you think a combined framework, a comprehensive framework would give more confidence to team owners, like yourself, and ease the field for the players as well?

KARAN BHARADWAJ: I think for any sport that sort of part of the Olympics, CAS would get involved. We've had a few matters within cricket, actually, with some spot fixing scandal that happened that went to CAS, Antidoping Regulations also that have gone to CAS. I think cricket is sort of at an inflection point from a business perspective as well. I think there are so many leagues, competitions, franchises, formats as well. Now I think conflicting windows also where you have multiple sort of leagues happening at the same time. A lot of the players are

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1 retiring from international cricket and sort of taking up domestic cricket because the Contracts
2 are larger. We've had cases where players have sort of terminated their contracts unilaterally
3 when Ms. Gupte said those provisions weren't there to sort of pursue other opportunities due
4 to commercial reasons. So I think, again leaning back on football, I think, having sort of a
5 unified structure, where the ICC, Dispute Resolution Committee could get involved at a second
6 level. BCCI or the relevant sport bodies internal governance and dispute resolution
7 mechanism getting involved at first level. Then the ICC and then, of course, CAS. I think that
8 sort of has worked very well in football and would work very well with cricket. Sort of very
9 unrelated to this, though I think ICC would probably need to sort of have a leaner calendar, I
10 would say to avoid so many disputes have particular windows, like transfer windows, where
11 players can move between teams. It adds commercial value as well to have such a thing.

12 **MANMEET SINGH:** Thank you so much Karan. While we are on the industry perspective,
13 Ms. Gupte, do you find cricket's internal mechanisms, current internal mechanisms adequate
14 for giving commercial comfort, for structuring high value deals, clearly those are happening,
15 but would you prefer a different framework, or are you comfortable with what is there?

16 **VANDANA GUPTE:** I think cricket today, in India at least, it has a very robust internal
17 mechanism but this mechanism is generally for internal governance. It's like an internal
18 governance tool. So it's for matters such as integrity, player selection, ethics, conflict of
19 interest. So they also have an ombudsman which is like a *quasi*-independent sort of a channel
20 for grievance, specifically limited to conflict of interest issues. So, it is a very robust
21 mechanism. In fact, I was also part of some of the procedures of internal committees of BCCI
22 in my IPL days, like early in 2007 and '08. So it is a very systematic and very professionally
23 conducted committees and procedures. But these are, again, as I say, governance tools. So the
24 commercial disputes still fall out of the ambit because even, for example, the Franchisee
25 Agreements also submit themselves to external arbitration. Because commercial disputes
26 ultimately need neutrality. They need enforceability. And they need that expertise also to
27 adjudicate on this, which internal committees I don't think are geared up for that.

28 **MANMEET SINGH:** Player Contracts have arbitration provisions.

29 **VANDANA GUPTE:** Yes as a first step internal committees are around.

30 **MANMEET SINGH:** For the disciplinary pieces, I suppose?

31 **VANDANA GUPTE:** Sorry?

32 **MANMEET SINGH:** For the disciplinary pieces?

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1 **VANDANA GUPTE:** Yes, from the disciplinary side selections. Antidoping, ethics, integrity,
2 all these governance, all these... even on field disciplinary actions and all, all these are
3 submitted to the internal committees, and they work very well.

4 **MANMEET SINGH:** Thank you, Kirtan. So far we've spoken about how cricket can benefit
5 from CAS. Do you think the reverse is also true? Can CAS benefit from cricket?

6 **KIRTAN PRASAD:** Thank you. I think, as we've said several times in the course of this panel,
7 where the money disputes will follow and I think more disputes will make for more
8 jurisprudence, and that always helps the development of Lex Sportiva. The one interesting, I
9 mean, as an anecdote, the interesting trend, if you see disputes in the UK. So football is to
10 England, what cricket is to India. If you see sporting jurisprudence generally, every time
11 there's been a flush of capital into football, there's been a spike of sporting disputes, the most
12 recent flush of capital being money from Abu Dhabi, which has resulted in the *Man City and*
13 *Premier League Dispute*, which is, which is sort of called the sports dispute of the decade.
14 I think that's what it's called. So in terms of how cricket would benefit? CAS actually does
15 publish its decisions, so perhaps published decisions will lead to greater consistency. And I
16 think as Karan mentioned sunlight is the best disinfectant, perhaps with greater scrutiny being
17 placed and public scrutiny being placed on cricketing decisions there will be benefit to the CAS
18 system... Sorry, benefit of the CAS system and to cricket as well. The one interesting dynamic
19 with cricket is unlike in the past where there wasn't as much digital observation of what the
20 angle of swing of a ball is and DRS. A general feature of CAS arbitrations is that it tends to be
21 very difficult to appeal on field decisions. I think in the case of cricket, with the level of
22 technological and digital accuracy that there is on field that may make it all the more difficult
23 to appeal on field decisions for cricket.

24 **MANMEET SINGH:** Thank you. Nakul, my final couple of questions for you. First, do you
25 see the high value commercial disputes which you said you've seen mostly cricket transacting
26 to other sports?

27 **NAKUL DEWAN KC:** So high value commercial disputes certainly are across the world are
28 in sports other than cricket, because I think that in the world I mean, football has big, golf is
29 big, tennis is big. If you go to Canada, Ice hockey is big. You go to the US, basketball is big,
30 right? So when you look at it from a worldwide perspective, sports disputes arise across
31 different spheres. When you look at it from an Indian perspective, yes, it is cricket. Do I see
32 that changing significantly in India? I don't think so. Not in the near future.

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1 **MANMEET SINGH:** All right. And finally, before we throw the floor open for Q & A, do you
2 believe that we are headed into a future where the Indian Bar will see more Sports arbitration
3 lawyers?

4 **NAKUL DEWAN KC:** The question again to me?

5 **MANMEET SINGH:** Yes.

6 **NAKUL DEWAN KC:** Do I see an exponential growth? Again, I don't think so. I mean, we
7 amended our Arbitration Act in 1996. It took 30 years to get an Arbitration Bar, and I can only
8 tell you that a significant number of people in the Arbitration Bar still do more litigation than
9 arbitration. So, if you're looking at a subset of Sports Lawyers, I think that's going to take time.

10 **MANMEET SINGH:** Thank you. We'd be very happy to take any questions which any of you
11 may have.

12 **SAKSHAM CHAUHAN:** I am Saksham Chauhan. I'm from London Boutique Firm. My
13 question is, with respect to sporting disputes in relation to sports people. And this is where the
14 problem is in India. So you see a lot of disqualification does not only arise at the national level,
15 but also at the state level, where athletes are disqualified on very random excuses or that your
16 eyes are yellow. And therefore you join this and you can't run. And the decision like these is
17 what creates disputes. But as Nakul said, it would not come because you don't have time to
18 challenge enough. Because by the time you're going to challenge, your race is going to be over.
19 So, my question is, do you think sports arbitration even, I mean, arbitration is too far. Would
20 sports disputes arise, and if at all, will there be a mechanism to decide these kinds of disputes,
21 which happen in district level, at state levels? So this is what I wanted to ask. Thank you.

22 **MANMEET SINGH:** So every sports federation, be it the District Federation, be it the
23 National Federation is required to have a dispute resolution mechanism. Currently, these are
24 mostly by way of internal committees, so the athlete does have a remedy. Now, the appeals in
25 some of them, for some sporting federations, either the first appeal or the second appeal lies
26 to CAS in some of them, it lies to another internal body. So there is a mechanism. Now, on
27 your point of whether that is very efficacious? Perhaps not. And I think that's what needs to
28 change. With arbitration, a completely external mechanism there will be that kind of
29 transparency, confidential process still, but an external, neutral, transparent process which
30 will ensure efficacious remedy.

31 **NAKUL DEWAN KC:** I can add to that. I mean, I can just give you an example of, say, tennis.
32 India hosts some very small tennis tournaments. I mean, I know that, you go to the back of

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1 beyond in Haryana and there'll be a \$10,000 ITF tournament, but there'll always be a referee
2 and it's that referee who will then adjudicate a dispute if it arises in relation to a player,
3 including in relation to a conflict that's arisen, disqualification, etc.

4 **KARAN BHARADWAJ:** Typically in India, the model we follow is quite similar to the UK,
5 where you have a District body, then you have the State body, then you have the National body.
6 And that's how sort of the qualification towards you qualifying for the nationals, world champs
7 Olympics works. There are systems and processes in place. But, yes, you're right, I don't think
8 they're as robust. Case in point, Olympic qualifications there's no calendar of events if you
9 have to look at, barring athletics, wrestling, no calendar of events. Football? Yes. Great sport.
10 Boxing? No calendar of events. So just six months before the Olympics, the Federation decides
11 let's have qualifications now. So you may get another **Vinesh Phogat** case again, where
12 essentially, if you're going to drop down a weight or go up a weight category, you may just miss
13 out by a few centimetres, so, yes I think the mechanisms are there, but I don't think they're
14 that robust.

15 **MANMEET SINGH:** Anybody else?

16 **CHITRANSH:** Hi, everyone, I'm Chitransh from Nishit Desai Associates. First of all, thanks
17 to all the panellists for a wonderful session, and a very informative one. My question is recently
18 the Online Gaming Act was passed in the Indian Parliament and most of the discussions we
19 saw here were about the in-person sports. But with the new regulations coming in to
20 regularized e-sports we might see an increase in the number of tournaments and the number
21 of player pools from India and outside India participating in these Indian hosted events,
22 possibly. So what kind of disputes are you expecting in this field of e-sports and is the Indian
23 jurisprudence or the Indian legal Arbitral System ready for handling these kind of disputes?

24 **NAKUL DEWAN KC:** I actually only have some facts and figures in relation to fantasy sport
25 and e-sports based on the Deloitte and Google survey, which was done. And fantasy sport, is
26 supposed to grow in India from, I mean, close to a \$1.6 billion industry by 2030 and e-sport is
27 supposed to grow to about 200 million dollar industry. So you're right these are sports which
28 are going to grow significantly, and again, they are certainly going to be lots of disputes that
29 are going to arise. Can I predict what's going to arise? Well, the answer is no. At this stage, I
30 don't think I can.

31 **MANMEET SINGH:** Nothing further from me. Anything else, or can we close? Thank you
32 so much for being a great audience. I know we had the post-lunch session. Thank you for
33 hearing us out. Thank you so much. I'd like to thank all my panellists before I wind up for

TERES

1 agreeing to be here at short notice. I know you all have very hectic schedules. Thank you so
2 much.

3 **HOST:** Thank you very much for the interesting session. Our next session is an online webinar
4 hosted by Nani Palkhivala Arbitration Centre. The topic of the session is, “Finality of Arbitral
5 Awards: Principal Practice and pitfalls”. The session is moderated by Renu Gupta and the
6 speakers include Akshay Sharma, Hina Shaheen and Rounaq Mathur. We will be displaying
7 the webinar on the LED screen here. So, I would request everyone to kindly be seated. Thank
8 you.

9

10 ~~~END OF SESSION 4~~~

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