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In Pursuit of Good Governance - Analysing the Main Points of Conflict in India's Draft Sports Code

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Introduction

Three years ago, the Government of India formed an expert panel to draft the [National Code for Good Governance in Sports 2017](#) (NCGGS 2017). The Code is currently in limbo as key [stakeholders continue to disagree](#) on what it should contain.¹ This article analyses three of the main points of dispute in the NCGGS 2017:

- The ban on politicians serving as board members in national sport federations (NSFs)
- The age limit of 70 years for board members in NSFs
- The four-year cooling-off period to be served after two consecutive terms for board members in NSFs

[The Indian Olympic Association](#) (IOA), NSFs and certain politicians have been leading the resistance against the above provisions claiming that they are either unworkable, unfair or inefficient. Conversely, [sport activists](#), lawyers, athletes and other politicians claim that the provisions represent good governance practices that are needed in Indian NSFs.²

This article assesses the rationale for the stated provisions, taking into account the extent to which they reflect international best practice and the specific circumstances of Indian sport. The purpose is not to come to a definitive view on the validity of the provisions, but rather to provide a deeper analysis of their merits and limitations. In the authors' view, this kind critical debate has been missing from the wider discourse on the NCGGS 2017.

¹ 'IOA raises objections to draft Sports Code', outlookindia.com, 11 November 2019, last viewed 17 June 2020, <https://www.outlookindia.com/newscroll/ioa-raises-objections-to-draft-sports-code/1660446>

² Q. M. Ali, 'Why India's Sports Administrators Hate To Adopt A National Sports Development Code', outlookindia.com, 2 January 2020, last viewed 17 June 2020, <https://www.outlookindia.com/magazine/story/sports-news-why-indias-sports-administrators-hate-to-adopt-a-national-sports-development-code/302623>

First, however, it is prudent to provide an overview of how the regulatory landscape pertaining to sport governance in India has evolved over the last decade.

Background – Regulating sport governance in India

Sport governance became a topic of mainstream public debate in India in the lead up to the [2010 Commonwealth Games](#) in Delhi. Revelations of corruption and gross mismanagement on the part of the organising committee caused outrage across the country. It was damaging to India's reputation as an up and coming nation, and the media were scathing in their criticism of sport bosses.³ Still, some managed to see a [silver lining](#) in the scandal – it was hoped that it would focus minds within Central Government on the need to regulate the NSFs.⁴

By the time of the 2010 Games, [frustration](#) had already been growing among athletes and sport activists over governance standards across Indian sport. Nepotism and cronyism on NSF boards was viewed as a systemic issue. In addition, limited transparency and accountability was thought to be contributing to a slow rate of professionalization that was hindering athletes' prospects.⁵

Governmental action first came in the form of the [National Sports \(Development\) Bill 2011](#), which sought to legislate for governance reform in the federations. Key elements of the Bill included a 25% voting share for athletes, introducing a sport ombudsman to deal with disputes, and age and tenure limitations. Ultimately, however, there was insufficient political will to convert the Bill into legislation. A number of influential politicians, most of whom also had roles in NSFs, considered the Bill too intrusive and it was [eventually scrapped](#).⁶

The NSFs were not completely in the clear as the Sports Ministry compelled them to adhere to the [National Sport Development Code 2011](#) (NSDC 2011). The Code set out some basic governance guidelines, including those relating to elections and term limits. Compliance with the Code was, and still is, necessary for NSFs to receive recognition and funding from the government. Various High Court and Supreme Court decisions have upheld the [binding nature](#) of the Code for these purposes.⁷

³ 'Fresh raids in Delhi Commonwealth Games scandal', [bbc.com](https://www.bbc.com/news/world-asia-india-17919906), 2 May 2012, last viewed 17 June 2020, <https://www.bbc.com/news/world-asia-india-17919906>

⁴ 'India outrage over IOA suspension from Olympics', [bbc.com](https://www.bbc.com/news/world-asia-india-20604739), 5 December 2012, last viewed 17 June 2020, <https://www.bbc.com/news/world-asia-india-20604739>

⁵ J. Kahn, 'Group battles corruption in Indian sports', [nytimes.com](https://www.nytimes.com/2010/09/30/sports/30iht-INDCORRUPT.html), 29 September 2010, last viewed 17 June 2020, <https://www.nytimes.com/2010/09/30/sports/30iht-INDCORRUPT.html>

⁶ 'Cabinet fails to approve proposed National Sports Development Bill', economictimes.indiatimes.com, 31 August 2011, last viewed 18 June 2020, <https://economictimes.indiatimes.com/news/politics-and-nation/cabinet-fails-to-approve-proposed-national-sports-development-bill/articleshow/9803952.cms>

⁷ Ikigai Law, 'Complying with the National Sports Development Code of India, 2011', 4 June 2020, Last accessed 22 June 2020, https://www.ikigailaw.com/complying-with-the-national-sports-development-code-of-india-2011/#_ftn2. See for example, *Indian Olympic Association vs Union of India*, W.P. (C) 2310/2012 (High Court of Delhi).

[Compliance with the NSDC 2011](#), though, has been an issue in numerous federations.⁸ Interestingly, it has not been the Sport Ministry holding NSFs to account for non-compliance. Rather, it has been Rahul Mehra, a prominent barrister and sport activist, who has initiated public interest litigation against NSFs for breaching the Code. The IOA and federations for football, boxing, archery, badminton, tennis, wrestling and volleyball have all been subject to such litigation.⁹

Judicial intervention in Indian sport peaked in 2015 when the Supreme Court appointed the [Lodha Committee](#) (chaired by a Former Chief Justice of India) to map out governance reforms for the Board of Control for Cricket in India (BCCI). The BCCI has never been required to implement the NSDC 2011 because it does not seek public funding. In the wake of the 2013 Indian Premier League [spot-fixing scandal](#), the Supreme Court thus saw a need to intervene and impose a new constitution on the BCCI by judicial order. The requirements of the constitution are significantly more onerous than the NSDC 2011.¹⁰ Subsequently, public interest litigation, [filed by eminent athletes](#), has attempted to extend the court-mandated reforms directed at the BCCI to all NSFs in India.¹¹

In 2016, another attempt to bring legislative reform to NSFs arrived with the [National Sports Ethics Commission Bill 2016](#). Although, the Bill, which Parliament has [not yet debated](#), focuses specifically on sporting integrity issues and has a narrow scope to influence the governance structures of NSFs.¹²

By 2017, Indian sport had come through a period of [significant growth](#) in which 14 professional sport leagues were formed in the space of five years.¹³ This again raised awareness of the need for good governance in NSFs, who are typically responsible for regulating professional leagues and managing the considerable revenues that flow from them. There was a growing sense among stakeholders across Indian sport that as the sector continues to evolve there is a need to strengthen sport governance regulation. The Sport Ministry thus [constituted a panel](#) to draft a new Code.¹⁴

⁸ N. Bhatia, 'The spotty history of sports governance in India shows why it produces so few champions', 2 August 2019, last viewed 18 June 2020, <https://scroll.in/article/932461/the-spotty-history-of-sports-governance-in-india-shows-why-it-produces-so-few-champions>

⁹ Ibid

¹⁰ S. Shekar and A. Saikia, 'The impact of the Lodha Committee BCCI report on sports governance in India', 15 December 2016, last viewed 22 June 2020, <https://www.lawinsport.com/topics/item/the-impact-of-the-lodha-committee-bcci-report-on-sports-governance-in-india>

¹¹ 'Supreme Court to hear plea for reforms in sports bodies on lines of BCCI', Economic Times, 24 January 2017, last viewed 22 June 2020, <https://economictimes.indiatimes.com/news/politics-and-nation/supreme-court-to-hear-plea-for-reforms-in-sports-bodies-on-lines-of-bcci/articleshow/56738462.cms>

¹² A. Mehrotra and P. Pandey, 'More than just a number: how India is trying to tackle age fraud in sports', 27 April 2020, last viewed 18 June 2020, <https://www.lawinsport.com/topics/item/more-than-just-a-number-how-india-is-trying-to-tackle-age-fraud-in-sports>

¹³ 'Booming 'super' league culture makes India's sports market sizzle', livemint.com, 19 September 2017, last viewed 18 June 2020, <https://www.livemint.com/Sports/7YN1ijF3miashmvdggetYI/Booming-super-league-culture-makes-Indias-sports-market-s.html>

¹⁴ 'Committee on National Sports Development Code', bestcurrentaffairs.com, 3 January 2017, last viewed 18 June 2020, <https://www.bestcurrentaffairs.com/committee-national-sports-development-code/>

The (Draft) National Code for Good Governance in Sports 2017

The panel tasked with drafting the NCGGS 2017 was composed of a [diverse mix of members](#) including four eminent athletes/coaches, one NSF President, two politicians, one sport journalist and one sport lawyer. The panel produced a [29-page document](#) enunciating a wide range of provisions relating to board composition and management, membership structures and elections, athlete representation, transparency and financial integrity, dispute resolution and monitoring of compliance. Compared to the NSDC 2011, the draft NCGGS 2017 is a more elaborate governance framework and, if implemented in its current form, would require Indian NSFs to make significant changes to their structures if they wanted to continue receiving government recognition and funding.

In 2018, there were [reports](#) that the Sport Ministry was unhappy with the Code that the panel had drafted. This fuelled concerns that politicians involved with NSFs were putting pressure on the Sports Ministry to dilute the Code's provisions.¹⁵ For their part, the IOA and NSFs were [publicly opposing](#) to the draft.¹⁶

Concerns that the Code might be diluted materialised in 2019 when the Sports Ministry formed another [13-member panel](#) to propose changes to the draft NCGGS 2017. This time, the number of NSF representatives on the panel increased from one to five.¹⁷ However, in another twist, the Delhi High Court [stayed the operations](#) of that panel following a petition from Rahul Mehra that its members were conflicted.¹⁸

At the time of writing, the NCGGS 2017 [remains in limbo](#) and the prospect of key stakeholders agreeing on what it should contain seems distant. Whilst acknowledging that self-interest is ultimately a key factor in decision-making, it is important for stakeholders to engage in evidence-based critical debate about what good governance looks like in Indian sport. In that vein, the subsequent sections of this article attempt to provide an objective analysis of the main points of contention in the NCGGS 2017.

The ban on politicians

¹⁵ M. Vasavda, 'Government wants to revise draft sports code, sets off alarm bells', indianexpress.com, 19 July 2018, last viewed 18 June 2020, <https://indianexpress.com/article/sports/sport-others/government-wants-to-revise-draft-sports-code-sets-off-alarm-bells-5265228/>

¹⁶ 'IOA rejects new National Sports Code draft, says might lead to IOC suspension' timesofindia.com, 11 November 2019, last viewed, 18 June 2020, <https://timesofindia.indiatimes.com/sports/more-sports/others/iaa-rejects-new-national-sports-code-draft-says-might-lead-to-ioc-suspension/articleshow/72008900.cms>

¹⁷ 'Ministry forms expert committee to review Sports Code', thehindu.com, 28 November 2019, last viewed 18 June 2020, <https://www.thehindu.com/sport/other-sports/ministry-forms-expert-committee-to-review-sports-code/article30109892.ece>

¹⁸ 'Delhi High Court stays Ministry panel', newindianexpress.com, 7 December 2019, last viewed 18 June 2020, <https://www.newindianexpress.com/sport/other/2019/dec/07/delhi-high-court-stays-ministry-panel-2072695.html/>

The [NCGGS 2017](#) states: “No Minister (whether a Cabinet Minister or Minister of State or Deputy Minister) of the Central Government or any State Government, Member of Parliament, Member of a State Legislative Council, Member of a State Legislative Assembly or Government Servant shall be an Office Bearer or Board Member of the NOC or NSF...”¹⁹

This provision has been the [most contentious issue](#) in the Code.²⁰ If implemented, the ban on politicians would be unprecedented in the sport industry. Recent academic research has identified over 50 sport governance codes²¹ and, to the best of the authors’ knowledge, none of those codes contains a provision that unilaterally prohibits political actors from serving as board members in NSFs. Thus, when assessing the merits of this provision, it is not possible to argue that it reflects established good governance practices. There is one exception, however. The Supreme Court of India, following the [Lodha Committee recommendations](#), has already barred politicians from serving on the Apex Councils of the BCCI and state cricket associations.

In November 2019, a leaked letter to the Sport Ministry revealed that the IOA and its member federations were opposing the provision on the grounds that it is “[discriminatory and unfair](#)”.²² Narinder Batra, as President of the IOA, was leading the revolt against the draft Code. Yet, in a bizarre situation, prior to Batra’s becoming IOA President [he was a member](#) of the panel that drafted the NCGGS 2017 and personally [signed off on the document](#) in its entirety. Batra has not commented publicly on if (or why) his view changed on the Code.

Many stakeholders, and particularly the affected politicians and their allies, see the exclusion of politicians as unjustified and unhelpful due to perceived benefits that they can bring to sport. This includes the greater likelihood of central governments [considering sport a priority](#) if leading politicians are involved with sport federations.²³ In addition, the vast majority of sporting infrastructure is [state-owned](#) in India.²⁴ Having a politician at the helm of an Indian NSF can help sports access those vital resources. Some also consider politicians to generally have diplomatic and administrative [expertise](#) that are useful to NSFs.²⁵

19 Article IV, 7, (d)

²⁰ S. Hussain, ‘No consensus yet on revised Sports Code’, timesofindia.com, 12 October 2019, last viewed 18 June 2020, <https://timesofindia.indiatimes.com/sports/more-sports/others/no-consensus-yet-on-revised-sports-code/articleshow/71550682.cms>

²¹ J. Chappelet and M. Mrkonjic, ‘Assessing sport governance principles and indicators’, In M. Winand & C. Anagnostopoulos (Eds.), *Research Handbook on Sport Governance*, Cheltenham: Edward Elgar Publishing Limited, 2019, pp. 10–29.

²² S. Hussain, ‘IOA dares ministry after wrangling over Sports Code’, timesofindia.com, 12 November 2019, 18 June 2020, <https://timesofindia.indiatimes.com/sports/more-sports/others/ioa-dares-ministry-after-wrangling-over-sports-code/articleshow/72017052.cms>

²³ J. Wong, ‘Time for politicians to step out of sports bodies?’, straitstimes.com, 15 December 2016, last viewed 18 June 2020, <https://www.straitstimes.com/sport/time-for-politicians-to-step-out-of-sports-bodies>

²⁴ ‘India: A Roadmap To Sports Infrastructure’, mondaq.com, 14 December 2018, last viewed 18 June 2020, <https://www.mondaq.com/india/sport/764608/a-roadmap-to-sports-infrastructure>

²⁵ ‘IOA chief bats for politicians leading National Sports Federations’, business-standard.com, 5 May 2018, last viewed 23 June 2020, https://www.business-standard.com/article/news-ians/ioa-chief-bats-for-politicians-leading-national-sports-federations-118050500808_1.html

The contrary argument is that this provision, although drastic, will facilitate the progression of Indian sport. In India, politicians have a ubiquitous presence in sport. A 2018 report showed that [47% of Olympic NSFs](#) in India had a politician as their President.²⁶ This degree of political involvement is common in autocratic countries, but highly unusual in democratic contexts.

Having politicians in control of various NSFs potentially risks state policy becoming sport policy, which may not necessarily reflect what is in the best interest of the sport, from the perspective of athletes, fans or other stakeholders. Indeed, what is in the best interest for the state, the individual's political agenda and the sport are often not aligned. This inherent conflict of interest that politicians bring to governing bodies has led a number of stakeholders to the belief that sports are [best governed](#) by people who are focused solely on what is best for the sport.²⁷ In addition, the entrenched influence of politicians in sport may also discourage athletes from speaking up against maladministration.

The prevalence of politicians in NSFs is a symptom of Indian sport evolving in a highly government-centric manner. Sport activists argue that, although at one point it may have been beneficial, the politicisation of NSFs is now [an impediment](#) to corporate involvement.²⁸ This is problematic because corporate involvement in sport is a well-known [driver of professionalization](#) and athlete success.²⁹

There is a view that Indian NSFs led by politicians disproportionately benefit from state funding and access to infrastructure.³⁰ It is arguable that excluding politicians from NSFs will create a fairer funding environment for all sports. Further, commentators have asserted that the presence of prominent politicians on NSF boards, particularly in Asian cultures, promotes [groupthink](#).³¹ Another argument against political involvement in NSFs is that, as public officials elected to represent societies, they should concentrate on their primary duty and not take up [additional roles](#) in sport administration.³²

A ban on politicians would be an unprecedented step in sport governance regulation. However, the [deep institutionalization](#) of political involvement in Indian sport is unique and, given the disadvantages noted, the provision is arguably justified in this context. A shift to greater corporate involvement is unlikely to happen organically. Politicians involved with NSFs enjoy too many benefits, namely [prestige and social status](#), to cease control voluntarily. Regulatory intervention would be required to induce this change.

²⁶ The Bridge, '47% Presidents in Indian Sports Federations are Politicians', thebridge.in, 26 March 2018, last viewed 18 June 2020, <https://thebridge.in/law-in-sports/indian-politicians-presidents/>

²⁷ K. Kumaraswamy, 'Politicians shouldn't head sports bodies: Vengsarkar', timesofindia.com, last viewed 30 June 2020, <https://timesofindia.indiatimes.com/sports/new-zealand-in-india-2016/top-stories/Politicians-shouldnt-head-sports-bodies-Vengsarkar/articleshow/14703881.cms>

²⁸ M. Agrawal, 'How lawyer, Nandan Kamath, is helping shape the future of Indian sports', lawinsport.com, 6 September 2019, last viewed 18 June 2020, <https://www.lawinsport.com/topics/item/how-lawyer-nandan-kamath-is-helping-shape-the-future-of-indian-sports>

²⁹ M. Dowling, J. Edwards and M. Washington, 'Understanding the concept of professionalisation in sport management research' *Sport Management Review*, Vol. 17, No. 4, pp. 520-529.

³⁰ J. McLeod, D. Shilbury and G. Zeimers, 'An institutional framework for governance convergence in sport: The case of India', [in press], *Journal of Sport Management*, pp. 1-16.

³¹ J. Wong, 'Time for politicians', straitstimes.com, 15 December 2016

³² Ibid

The prospect of this provision being enacted seems unlikely. For the Code to come into effect, it needs political support. Yet, politicians are unlikely to support a Code that would make them ineligible for prestigious positions in NSFs. This situation has been described as the ‘[regulatory capture](#)’ of Indian sports and it highlights why the strongest intervention in Indian sport governance has had to come via [judicial activism](#).³³

The debate over the NCGGS 2017 has an ironic contradiction. The IOA claims to be opposing the Code, in part, because such regulation constitutes [government interference](#) and compromises their autonomy.³⁴ Yet, the Code would bar politicians from having any direct influence in NSFs. This contradiction is illustrative of the diverse interests involved in Indian sport and the challenges of introducing regulation.

The age limit

The [NCGGS 2017 stipulates](#) that anyone who reaches the age of 70 years will be ineligible to stand for election for board positions in the IOA and NSFs. Further, if an existing board member reaches the age of 70 whilst holding office, they must stand down from their position.³⁵ In its letter to the Sports Ministry, the IOA did not oppose an age limit outright. Rather, [they argued](#) that, although the 70-years limit was consistent with the Olympic Charter, a cap of 75-years offers greater flexibility and is more appropriate for the Indian context.³⁶ It should be noted that Indian NSFs are already exposed to an age limit via the [NSDC 2011](#), although this is only for office bearers (the limit is 70 years). The NCGGS 2017 would extend this provision to all board members.

Age limits are [uncommon](#) in sport governance frameworks³⁷, and thus India would be taking an atypical approach if it were to adopt this provision. They are similarly rare in the corporate context, although a [2016 report](#) suggests they may be becoming more popular.³⁸

The commonly cited rationale for an age limit is that it encourages board refreshment and new ideas. It also incentivises organisations to recruit [young people](#), who are underrepresented on boards across sectors. With greater awareness of the value of cognitive diversity, there is a growing acceptance that young people are needed to improve boards.³⁹ This problem may be a particularly acute in India. The country is known for its

³³ N. Kamath, ‘The way forward for sports federations’, sportstar.thehindu.com, 19 September 2017, last viewed 23 June 2020, <https://sportstar.thehindu.com/magazine/the-way-forward-for-sports-federations/article19715238.ece>

³⁴ ‘IOA rejects new National Sports Code’, timesofindia.com, 11 November 2019

³⁵ Article 1. 1. (f) (i)

³⁶ ‘IOA rejects new National Sports Code’, timesofindia.com, 11 November 2019

³⁷ S. Bang, ‘Most sports federations fail to meet basic principles of good governance’, playthegame.org, 10 July 2015, last viewed 23 June 2020, https://www.playthegame.org/news/news-articles/2015/0056_most-sports-federations-fail-to-meet-basic-principles-of-good-governance/

³⁸ ‘Board Age Limits Continue Upward Trend’, deloitte.wsj.com, 26 January 2016, last viewed 23 June 2020, <https://deloitte.wsj.com/riskandcompliance/2016/01/26/board-age-limits-continue-upward-trend-2/>

³⁹ ‘We need young people on boards’, theceomagazine.com, 13 November 2018, last viewed 23 June 2020, <https://www.theceomagazine.com/business/management-leadership/we-need-young-people-on-boards/>

hierarchical [culture](#) in which elders are expected to be given leadership positions.⁴⁰ Such a culture is antithetical to having young people in governance positions. That said, India has become the [world's youngest country](#) (national average age is 29)⁴¹, so this may be forced to change in the coming years.

There is also the sensitive and contentious issue that over 70s are, generally, at risk of experiencing health issues and cognitive decline. This has fuelled discussions in the US that it might be prudent to introduce an [age limit](#) for those running for presidency. This year, the presidential candidates are Donald Trump, age 74, and Joe Biden, age 77.⁴² [Similar arguments](#) are often made in jurisdictions with age limits on judges, such as in Australia.⁴³

A primary argument against age limits is that over 70s are likely to have amassed a wealth of knowledge and experience that can be of value to NSFs. Another concern is that due to the [honorary nature](#) of board positions in sport, many professionals under 70 are too preoccupied with their primary career to take roles in NSFs. In contrast, over 70s, who are often otherwise retired, tend to have sufficient time to commit to sports administration.⁴⁴

A 2018 study by [Equilar](#) found that the age of directors at a company does not have any significant effect on its performance.⁴⁵ It is imperative that regulators consider what they are trying to achieve with an age limit, and whether it is an effective means to that end. In India, if the rationale is to encourage younger people onto boards, it will not have the desired effect if 60 year olds replace 70 year olds. A better option might be to avoid age limits and instead have a quota for a particular number of under 40s board members. If the rationale is to encourage board refreshment, then it seems difficult to justify an age limit if a term limit is already in place.

The term limit and cooling-off period

⁴⁰ 'Indian business culture and business etiquette', [asialinkbusiness.com](https://asialinkbusiness.com.au/india/conducting-business-in-india/indian-business-culture-and-business-etiquette?doNothing=1), n.d., last viewed 23 June 2020, <https://asialinkbusiness.com.au/india/conducting-business-in-india/indian-business-culture-and-business-etiquette?doNothing=1>

⁴¹ 'With an average age of 29, India will be the world's youngest country by 2020', [financialexpress.com](https://www.financialexpress.com/india-news/with-an-average-age-of-29-india-will-be-the-worlds-youngest-country-by-2020/603435/), 26 March 2020, last viewed 23 June 2020, <https://www.financialexpress.com/india-news/with-an-average-age-of-29-india-will-be-the-worlds-youngest-country-by-2020/603435/>

⁴² S. Bokart-Lindell, 'Are Biden and Sanders Too Old to Be President?' 19 September 2019, last viewed 23 June 2020, <https://www.nytimes.com/2019/09/19/opinion/president-age-limit-biden.html>

⁴³ A. Blackham, 'Why mandatory retirement ages should be a thing of the past', [theconversation.com](https://theconversation.com/why-mandatory-retirement-ages-should-be-a-thing-of-the-past-94484#:~:text=Federal%20Australian%20judges%20must%20retire,between%20ages%2065%20and%2072.), 9 April 2019, last viewed 23 June 2020, <https://theconversation.com/why-mandatory-retirement-ages-should-be-a-thing-of-the-past-94484#:~:text=Federal%20Australian%20judges%20must%20retire,between%20ages%2065%20and%2072.>

⁴⁴ J. McLeod, 'The challenge of recruiting unpaid directors for voluntary sport boards', [bmmagazine.co.uk](https://www.bmmagazine.co.uk/opinion/challenge-of-recruiting-unpaid-directors-for-voluntary-sport-boards/), 2 June 2018, last viewed 23 June 2020, <https://www.bmmagazine.co.uk/opinion/challenge-of-recruiting-unpaid-directors-for-voluntary-sport-boards/>

⁴⁵ E. Carroll, 'How Director Age Influences Corporate Performance', [corpgov.law.harvard.edu](https://corpgov.law.harvard.edu/2018/01/04/how-director-age-influences-corporate-performance/), 4 January 2018, last viewed 23 June 2020, <https://corpgov.law.harvard.edu/2018/01/04/how-director-age-influences-corporate-performance/>

The [NCGGS 2017](#) states “An Office Bearer or a Board Member of the NOC/NSF may hold such office for 2 (two) consecutive terms of up to 4 (four) years each, upon the completion of which, such person shall be eligible to become an Office Bearer or Board Member again after serving a cooling-off period of four years...”.⁴⁶

Despite [media reports](#) implying the contrary⁴⁷, this provision indicates there is no maximum number of terms for board members. However, they must serve a cooling-off period of four years after two consecutive terms. The exception to this is NSF Presidents, who can serve “up to 3 (three) terms of 12 (twelve) years, with or without breaks, after which the person shall not be entitled to return as an Office Bearer or Board Member of the NSF”.⁴⁸

There is consensus in academia and practice that term limits are a pillar of good governance in sport. The primary argument for this is that they prevent the [monopolisation of power](#).⁴⁹ The longer individuals stay in leadership positions in NSFs (or any organisation), the more they accumulate influence. Decision-making then becomes an increasingly authoritative process lacking in diverse thought. The sport industry has seen numerous such examples in recent years. This includes [Sepp Blatter’s](#) 17-year reign at FIFA⁵⁰ and, in India, [Vijay Malhotra’s](#) 44-year reign as President of the Archery Association of India.⁵¹

The main disadvantage of term limits is the potential waste of talent and experience. It is unhelpful for sport organisations if a highly productive administrator is forced to retire and replaced by someone less competent. The dominant view in the international sport community, though, is that this is an [acceptable trade-off](#) to mitigate the risk of power monopolisation and encourage new ideas.⁵²

The length of term limits remains a more debatable issue. Broadly, the norm is for international or national federations to hold elections every three to four years, with board members allowed to serve a maximum of [9-12 years](#).⁵³ The proposed use of a cooling-off period as the means of term limitation in India is an unconventional approach. Again, there is little precedent for it in existing sport governance codes. Although the cooling-off period may be useful method of disrupting power monopolies, there is a risk that individuals will still amass significant power in the longer term because there is no upper term limit. It may also increase the risk of board members installing proxies to exercise power on their behalf until the cooling off period concludes.

⁴⁶ Article IV. 7. (b)

⁴⁷ ‘IOA rejects new National Sports Code’, timesofindia.com, 11 November 2019

⁴⁸ Article IV. 7. (b)

⁴⁹ S. Bang, ‘Sport federations’, playthegame.org, 10 July 2015

⁵⁰ J. Reevell, ‘Sepp Blatter’s resignation: Key questions’, bbc.com, 2 June 2015, last viewed 23 June 2020, <https://www.bbc.com/news/world-europe-32985764>

⁵¹ S. Hussain, ‘New dawn in Indian archery: Vijay Kumar Malhotra out, BVP Rao in’, timesofindia.com, 23 December 2018, last viewed 23 June 2020, <https://timesofindia.indiatimes.com/sports/more-sports/others/new-dawn-in-indian-archery-vijay-kumar-malhotra-out-bvp-rao-in/articleshow/67213857.cms>

⁵² S. Bang, ‘Sport federations’, playthegame.org, 10 July 2015

⁵³ Ibid

The IOA, while proposing that there should be a term limit for office bearers (President, General Secretary and Treasurer), argues that there should be [no limitations](#) (including a cooling-off period) for other board members.⁵⁴ This is inconsistent with international standards of good governance in sport (where all board members are expected to have a term limit).⁵⁵ There does not appear to be a straightforward justification for why India would not follow this standard. The country has a well-educated population and [pipeline](#) of sport management professionals.⁵⁶

Conclusion

The intention of this article was to provide a balanced analysis of three controversial provisions in India's draft NCGGS 2017: the ban on politicians, the age limit and the mandated cooling-off period. Clearly, there are a range of potential merits and limitations to the provisions. To varying degrees, the provisions are distinctive – there is little precedent for them in national sport governance codes in other jurisdictions. That does not mean they are invalid. India is a unique sport context that arguably requires its own unique governance framework. This article has not, nor has it intended, to offer a definitive view on the provisions. Instead, it has attempted to provide a nuanced and critical discussion of the issues, which we believe has been missing from the wider discourse. We hope that this article can provoke further debate on what good governance looks like in Indian sport.

⁵⁴ 'IOA rejects new National Sports Code', timesofindia.com, 11 November 2019

⁵⁵ S. Bang, 'Sport federations', playthegame.org, 10 July 2015

⁵⁶ 'Career in sports management kicks off in India', economicstimes.indiatimes.com, 23 July 2018, last viewed 23 June 2020, <https://economictimes.indiatimes.com/jobs/career-in-sports-management-kicks-off-in-india/articleshow/65109634.cms?from=mdr>