



Sport Betting in India: A Critical Analysis

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ABSTRACT

“Gambling is a principle inherent in human nature.” -Edmund Burke

Over the past few decades, the sports betting market has expanded quickly and is currently a multibillion-dollar industry. The current legal system in India forbids gambling on sports. The main piece of law that significantly restricts gaming by excluding particular groups is the Public Gambling Act of 1867. In that it permits betting in horse racing but forbids it in other sports, it is paradoxical. It is a colonial statute, which makes it uninformed about online gambling. The existing paradigm is unable to explain a problem that is quickly getting worse. Sports betting cannot be avoided, and legalising gambling seems to be the best way to address this serious issue. The Mudgal Committee as well as the Lodha Committee are among the panels that have firmly supported legalising sports betting. By regulating sports betting, the Government will profit financially, more jobs will be created, and the threat posed by the illegal market will be lessened. The law was predicated on the idea that it was a game decided totally or in part by chance, but sports betting involves the use of ability and knowledge on the part of the participants. The research paper discusses a big, horrific contemporary problem and makes an effort to suggest a remedy.

KEY WORDS

Gambling, Betting, Legalized Betting, Wager, Horse Racing, Lottery.

INTRODUCTION

The dice game of Mahabharata, where the fate of Pandavas were decided by *chausar*, is a notable instance that lends credence to the idea that there were gambling establishments in prehistoric times. These have historically been seen as parts of human history. Even the scriptures have traces of it as a root of destruction of a family.

According to the Merriam-Webster Dictionary, gambling can be defined as “*the practice of risking money or other stakes in a game or bet*”. In general it can be considered as a wager where one party win and other loose something on the happening or not happening of some agreed event.

The Meghalaya Prevention of Gambling Act, 1970 also defines gambling as, “*Gambling*” or “*gaming*” means a play or game for money, including betting and wagering, by which a person intentionally exposes money to the risk or hazard of loss by chance; but does not include- a lottery or wagering or betting upon a horse race, when such wagering or betting takes place on the date on which the race is to be run¹.

As per the above definition, gambling can be said to be a wager where money is put in a chance and result be either loss or gain. Card games, lotteries, dice games, electronic games, sport betting are the most popular form of gambling.

Betting and India

We have seen the significance of gambling in recent years owing to the growth of the online betting market in India. The online betting market as well as sport betting websites have experienced tremendous growth as more and more people sign up for betting applications and real money gaming websites.

Sport betting is a type of gambling when a wager is made on how a sporting event will turn out. Sports betting means to risk your money on race or any sport by trying to predict the results. If you are right then you win but if you are wrong then you will lose all the money you have risked at your own cost.

Sports are now very popular, and betting makes them an attractive, albeit illegal, industry worth millions of dollars. Sports including cricket, hockey, football, horse racing, and badminton all have results that can be bet on, with cricket betting being the most common in India.

There are many reasons for the rise of sports betting in India out of which following are important:

- a) There is no law that makes online betting an illegal activity.
- b) People use mobile phones more.
- c) The Popularity of Cricket and football.

There are many online betting websites worldwide some of them are RajBet, 22Bet, Bet365, Funbet etc.

Fantasy Games

Online platforms like dream 11, my 11 circle, Pari Match are some famous type of fantasy league popular in India. These leagues give opportunity to the players to create a virtual team from the available squads and pay some fees to join the fantasy league. The outcome of the game depends upon the actual performance of the players selected in the teams. Points are being awarded to the players as per their performance in the game, which cumulatively shows the total points gain by the participant. The result is based on the points earned and the winners get a higher amount.

If we see the fantasy gaming market, it is quite evident that about half of the population is playing fantasy leagues around the country. These platforms are unregulated and out of the purview of any state, considering the flow of money through these channels it is definitely loss of revenue to the states.

Gambling Market in India

Gambling in India can be separated into segments; legal, illegal, festival gambling. The reports suggest the gambling market is about \$60 billion per annum², with almost 70% of it being illegal. Legal gambling is prevalent in states like Goa, Sikkim, Kerala etc. where Goa and Sikkim are the pioneers of the gambling industry in India having major gambling destination. Casinos and online form of gambling are legalised in these states which not only provide amusements to the tourists but also plays an important role in generating revenue.

Lotteries are the most popular method of gambling in India, being legalised in 12 states. Only Kerala generated about 7394.91 crores of revenue from state-run lotteries during 2016-17³.

Horse racing is the oldest form of betting allowed in India under the Public Gambling Act, 1867. Various racecourses conduct horse-racing events in India at several places notably; Royal Calcutta Racecourse, Mumbai (Mahalakshmi) Racecourse, Mysore Race Club etc⁴. Revenue generated from horse racing is estimated about Rs 2 billion each year⁵.

Goa is the first state to legalise casino industry in India along with Sikkim and Daman and Diu. The revenue generated from casinos in India is approximately Rs 500 crore per year, with Goa having about 95% share in it.

Game of Skill or of Chance

Game of skill is something where the physical or mental ability of a person determine the result of a game instead of mere chance. Here chance can be an element but not an essential. One the other hand a game of chance is something where no amount of skill is required as some external element affect the outcome and the participant can only guess the happening or not happening of the event.

The king bench in *R v. Fortier*⁶, interpret the game of chance, as a game entirely depend upon mere luck and skill or adroitness are not a party to it.

In any sport a player having superior strength, skill and ability, whether physical or mental, have an upper hand compared to those with lower states. Though sometimes chances plays an important role in the outcome but that cannot change it from a game of skill to a game of chance⁷.

The Supreme Court in plenty of cases declared that games like horse racing, football, boat racing are of skill and not chance⁸. Even game of cards like rummy is considered as a game of skill by the court⁹.

Legality of Sport Betting in India

In India betting is generally illegal (except in horse racing). The advent of gambling law can be traced back to British period where the Government of British India enacted the Public Gambling Act, 1867 on 25th January 1867¹⁰ which becomes very important tool for prohibiting sports betting in India. The Act of 1867 is a general law which deals with the provisions of public gambling and common gaming house for that purposes. The Act banned nearly all forms of gambling along with the operation of gambling houses by imposing penalty of Rs 200 or imprisonment up to three months¹¹.

Government of India Act, 1935 gives exclusive powers to the States to enact their own Statute which significantly reduced the applicability of the Public Gambling Act. After independence, the Constitution under State List gives power to the States to enact laws governing taxes and gambling¹². Numerous legislations came into picture, such as “the Bombay Prevention of Gambling Act¹³, 1887”, “the Meghalaya Prevention of Gambling Act¹⁴, 1970”, “the Rajasthan Public Gaming Ordinance¹⁵, 1949”, “the Tamil Nadu Gaming Act¹⁶, 1930”, to deal with gambling within States¹⁷. These Statutes have some common provisions, like, exempting any game of mere skill, e.g. horse racing etc. and prohibiting gambling or other activities of mere chance.

Goa, Daman and Sikkim are the states where gambling is made legal through the enactments. These states have casinos where games like *roulette*, *blackjack* etc are played¹⁸. The profits from these are taxable and are an important source of revenue for the states.

In 1998, the Parliament enacted the Central Lotteries (Regulation) Act¹⁹ which authorizes the States to run lotteries within their respective territory on their terms. Currently there are 12 states that have legalized lottery. Sikkim is the only state to allow online lottery by enacting the Sikkim Online Gaming (Regulation) Act²⁰, 2008. Online gaming has been defined under section 2(k)²¹ of the Act. Also there is licensing provision which authorize the applicant to conduct lottery as per the provisions of the Act.

Nagaland Prohibition of Gaming and Promotion and Regulation of Online Games of Skill Act²², 2016 was passed to regulate the online gaming of skill²³. Like Sikkim, this Act also issue license to hold and conduct online games.

States like Tamil Nadu, Telangana, Karnataka recently pass amendments to prohibit online gaming activities across their territory²⁴. The Madras High Court struck down the amendment, made by Tamil Nadu Government, declaring it violative of article 19(1)(g). Karnataka also lift the ban in February 2022.

The Supreme Court, in *Board of Control for Cricket v. Cricket Association of Bihar & Ors* (2016)²⁵, mandate the Law Commission to look for the possible solution of this issue.

Should Betting in Sport be Legalized in India?

A constant discussion is going today about whether the betting in sport should be legalized or not. One set of people are against the legalization of betting on sport on the ground of morality and public policy. They are of the view that it will disrupt the healthy spirit of the game since the player will be forced to rely on unfair means in order to win the game due to lot of pressure. Further the legalization of the betting can be seen as the invitation to opt corrupt practices to gain money in short period.

On the other hand the supporter of the legalization sees it in a different way. They see it as a tool to curb money laundering, increasing revenues and generating employment for the youth by developing a new market.

The researcher, too, is in favour of legalizing betting in India, reasons behind the view are discussed below:

- **Game of skill and not chance:** As we have discussed earlier that betting is not merely a game of chance because lot of knowledge, skill, practice are required in winning. For instance, while betting in a horse race, the participant analyze various elements such as animal's fitness, jockey's ability etc. same is done while betting in a cricket game. Here the condition of pitch, the form of players etc are analyzed before making a bet on the game. Betting on Horse racing is legal as per the laws so why not betting on cricket, football or other kind of games can be allowed.
- **Cannot be eradicated completely:** It cannot be denied that online gaming industry has become a large-scale industry in India, though in unrecognized form it have a significant place in the society. People are keen of making money with less effort which give rise to the betting market in India. Despite of the prohibition on betting by the 1867 Act, it is evident that a large betting industry is running off the papers.
- **Reducing black money:** Since there is nothing to regulate the betting industries in India the same is currently controlled by masked people (of underworld) which ultimately resulted into the free flow of black money into the market because of unrecognized transactions²⁶. Mostly all the transactions in the betting industries are made in cash or through an unidentified channel which make it easy to be used in illegal activities. The issue was identified by Justice Mukul Mudgal in his book²⁷ where he elaborates the challenges before the investigating agencies tracking black money. Legalizing sport betting not only

reduce the flow of black money in the market but it also help the investigating agencies to track the illegal betting businesses running by unwarranted people.

- **Bringing revenue:** Generating revenue from the gambling industries is not a new concept. It was there, during the Mauryan period, as a state-sponsored subject imposing 5% tax on winning²⁸. The betting industries was estimated to be about \$ 60 billion as per the KPMG reports²⁹ with others claiming it to be more than that might be a great source of revenue for exchequer if regulated properly with a defined licensing system³⁰. Bringing it within income tax or putting it in GST can be possibly generate a lot of revenue to the state.
- **Employment opportunities:** A legal and controlled betting industry will aid in generating income as well as numerous jobs on a wide scale. It has opened up enormous opportunities for job creation globally. For instance, the legal gambling business in the United States employs over 2.5 million people, compared to over 10 million in the United Kingdom³¹.

CONCLUSION

Betting is a game of luck like a toss if it comes head then you win but if it comes tail then you will lose, the more you will play this betting the more you will get trapped into it.

Throughout human history, gambling has expanded and changed, and individuals are constantly coming up with new ways to gamble. With the development of technology over the past few decades and the arrival of the Internet, gambling is now more accessible to those who want to bet and wager.

The World is swiftly moving towards a more liberal viewpoint towards game of 'skill'. Indian gambling and online gambling laws are either archaic or non-existent. The current Government hasn't put forth any dedicated gambling laws in India, and this century has hardly seen any techno-legal framework being formed. The Online Gaming (Regulation) Bill, 2022 can be an effective step in the direction of settling the status of sport betting in India. But caution is needed while framing the points in the Bill since anything passed by the Parliament not only affect the public in general but also the stakeholders, who are organizing the betting business in India, who can play an effective role in boosting the economy of the country.

Several committees and bodies have recommended that betting in sport should be legalized. The reason behind it is that having a regulated and monitored industry would be far better than an underground activity³². Even the former executive of ICC Haroon Lorgat was in the favour of a regulated betting industry in India³³. The committee on the reform of cricket, headed by justice Lodha, advocated for the licensed betting industry in India to avoid the evils of match fixing³⁴.

Betting in sport is something which cannot be eradicated completely therefore regulating it seems to be more appropriate step instead of wasting efforts in criminalizing it³⁵. A regulated betting industry not only help in curbing the illegal black money but also benefit the government by providing assistance in earning taxes and in creating new employment.

Same is observed by Mr. K. T. S. Tulsi³⁶ (Sr. Adv. Supreme Court), at FICCI-CLA Conference, that since the betting is purely contractual and it did not violate any person's right so it should not be made illegal merely because of some immoral ground. Instead a regulated legalized betting would help the Government in ensuring transparency in the industry which would be surely a blessing in disguise.

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