
ONLINE BETTING IN SPORTS: A COMPARATIVE ANALYSIS

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ABSTRACT

In India, betting or gambling activities are considered to be illegal by law, while online betting per se is not held to be an unlawful practice and this very loophole is frequently used by many betting apps to influence people to place bets online on various games. As betting comes under the state subject, the constitution of India grants each state the power the seventh schedule to make its own laws related to “betting or gambling” for its own territory. The central legislation of Public gambling act, 1867, is a British era law that held gambling and betting to be illegal in India but since the statute was enacted in the pre-internet era, the prohibition is only limited to "gaming houses" or "common gaming houses". The Apex Court and the High Courts of various states, has upheld the status of fantasy sports and has also defined “game of skill” and “game of chance” but the issues of its legality are still not clearly defined. The 276th law commission report recommended that “if legalisation of online betting and gambling is not possible, its regulation can be a viable option”. This article aims to shed light on the history of the development of online betting and gambling in India as well as the problems it causes. It covers the necessity for internet gambling regulation in India and discusses the advantages and disadvantages of the same. The paper also discusses the regulations for betting in India and other jurisdictions. It also analyzes the question of whether gambling and betting can be legalized in India.

Keywords: Gambling, Online Betting, Fantasy sports, Game of skill, Game of Chance, legality.

CHAPTER- 1

INTRODUCTION

Betting or Gambling has been practised in India for decades. It started as a medium of entertainment that slowly evolved into a big business of making easy and quick money. With the expansion of the internet era, the scope widened to online gambling replacing the old traditional casinos to cyberspace, where the market is huge. Staking something of value upon an uncertain event where the results depend wholly upon a chance can be defined as gambling. As cricket gained recognition as an entertaining sports across the world, it paved way for practice of gambling in India, but the “Public Gambling Act, 1867” which was enacted by the britishers restricted the operation and visitation of a ‘Gambling House¹’. It is even today the central legislation in India that provides rules and restricts all forms of gambling, whereas many states have their own state legislation also. The laws strictly forbids and punishes any type of wagering on sports. Under its Seventh Schedule, the Indian Constitution grants each state the full ability to make its own legislation concerning "betting and gaming" for its own territory. A number of states, including Delhi, Uttar Pradesh, and Madhya Pradesh, have implemented the Public Gambling Act, 1867, a law from the colonial period that is still in force today. Some governments have also made their own state changes to it. Other states have passed their own legislation to control gaming and gambling within their jurisdiction through their Gaming Laws. The Public Gambling Act serves as the basis for the majority of these, but with the necessary amendments. However, there are some inadequacies in the gambling legislation specifically when it comes to online gambling, a gray area about its legality has emerged as a result of the legislation's uncertainty and complexity.

Under the current legal system, gambling and sports betting are prohibited by the Public Gambling Act of 1867. According to Section 2(b) of the act, gambling includes wagering or betting but does not include a lottery². Entry 62 State List of the seventh schedule of the Constitution, a state legislature has the authority to enact laws concerning taxes and gambling. In addition, the FICCI also estimated the illegal market of gambling to be worth nearly Rs. 10

¹ Ankur Jain, “Gambling in India: A Study from the Perspective of Law and Economy”, Vol 6, PEN ACCLAIMS, 1-21, 2019.

² Public Gambling Act, 1867, § 2 (b), No. 3, Acts of Parliament, 1867 (India).

lakh crore in 2016³.

When it comes to internet betting, it's done through services that are not based in India, including 1XBet and Bet365, which let people place bets on sporting events in real time. These websites frequently operate outside the scope of Indian law. In such a scenario, an user from India would be allowed to use websites whose servers are located in jurisdictions where gambling is permitted. To do this, one might wager online at such sites, as well as send and receive money using bank transfers, online UPI and other techniques. However, as betting on sports is prohibited in India, legislation has found other ways to restrict online betting like anyone who publishes, transmits, or provides for the publication of any material via electronic means that contains objectionable sexual content or if its effect is such that it depraves and corrupts liars is subject to a fine of up to Rs 1 lakh and a sentence of up to 5 years under Section 67 of the Information Technology Act.⁴

Since gambling and sports betting are prohibited in India, it means that any website providing these services will be considered corrupt or depraved under the terms of the aforesaid legislation. The Foreign Exchange Management Act, 2000 regulates currency exchanges, money transfers from India to any foreign nation, and the inflow of foreign cash into India.

Remittances are prohibited under Rule 3 of the Schedule Financial Exchange Management Act of 2000 for the purchase of lottery tickets, restricted publications, football pools, sweepstakes, and others.⁵ In another scenario, Section 3 of the Foreign Exchange Management Regulations (Foreign currency amounts), 2000, which prohibits any Indian resident from opening, holding, or maintaining a foreign currency account without special permission from the RBI, will apply to any resident who attempts to engage in online gambling through any of these websites by opening a foreign currency account in nations where sports betting is permitted⁶. Because it offers so many chances and potential for expansion, the industry for online gambling is proving to be advantageous for both users and service providers.

³ FICCI-KPMG. The power of a billion: realizing the Indian dream. FICCI-KPMG report, 2013. <http://ficci.in/spdocument/20217/FICCI-KPMG-Report-13-FRAMES.pdf>.

⁴ Ankur Jain, "Gambling in India: A Study from the Perspective of Law and Economy", Vol 6, PEN ACCLAIMS, 1-21, 2019.

⁵ Saakshi Anand, "Internet Gambling in India: Regulation or Prohibition?", Vol 4, JOURNAL ON CONTEMPORARY ISSUES OF LAW [JCIL], 173-187, 2020.

⁶ Ankur Jain, "Gambling in India: A Study from the Perspective of Law and Economy", Vol 6, PEN ACCLAIMS, 1-21, 2019.

Public Gambling act, 10987 has been repeatedly declared redundant by Apex Court and several High courts as it is not adequate to regulate online gaming. Several States in India like Karnataka, Madras, Assam, Andhra Pradesh, Odisha, Telangana and more have recently placed strict restrictions on game of skill and game of chance with real money.

Game of skill requires a player's expertise and mental strength to win, it does not depend upon luck. Players use several strategies to win. It requires constant practice to improve chances of victory. Whereas, in Game of chance winning is wholly dependent on luck. Players may or may not win, as each one has the equal chance to win despite their skills like in the lottery. Now, as online gaming platforms and betting are gaining popularity, some states have legalised betting on games of skill and not games of chance but the definition of these games into categories of chance or skill still remains unclear. Law Commission of India Report 276 recommends primarily the need to legalise and regulate betting and gambling. It is suggested that legalization and regularization of betting and gambling would enable the government to generate revenue out of it by making it taxable under Income Tax Act, 1961, the Goods and Services Tax Act, 2017 and other relevant Acts. Other than that the Indian courts have not given any clarity on the issues of legalising online betting whereas its practice is still prevalent. While India is still figuring out the legal aspects of it, other countries have a mixed perspective on online betting in sports. The paper examines firstly whether online betting should be legalised in India and whether the laws regulating and legalising online betting in other countries can be used as a precedent by India.

In the paper, Chapter I is the Introduction to the paper and Chapter II will be dealing with different state legislations, fantasy sports and Indian courts on game of chance and game of skill. Chapter III is International comparison and Chapter IV of the paper provides a brief study on the 267th law commission report. Chapter V is the conclusion and recommendations by the researcher.

CHAPTER 2

INDIAN LEGAL FRAMEWORK

2.1 INDIAN STATE LEGISLATIONS

There is a licensing procedure for internet gaming in the states of Sikkim, Nagaland, and Meghalaya. It is allowed in Sikkim for online games and sports games, but only under the restrictions that they can only be provided via internet terminals and not to residents of the

state. Only online skill games are subject to Nagaland's licensing regulations. Meghalaya recently enacted a system for both skill-based and chance-based games, but has not yet introduced the allied rules and regulations that provide more specific information. Activities related to internet gaming, especially skill gaming, are prohibited in the states of Assam, Odisha, Telangana, and Andhra Pradesh.

Recent changes to the state gaming laws in Telangana, Andhra Pradesh, and Tamil Nadu either weakened or eliminated the stated exemption for skill games and put a general ban on all games played for stakes, including skill games and internet games. Online sports betting frequently occurs and the existence of online bookmakers generates a significant "grey" market in which residents of these states can participate. The state of Kerala has issued an executive notification at the start of 2021 prohibiting online gaming platforms from offering rummy for real money in the area. These gambling law amendments were all contested in court.

The Telangana Gaming Act, 1974 and the Andhra Pradesh Gaming Act, 1974 both face legal challenges that are currently pending before the respective High Courts. In August 2021, the Madras High Court in the state of Tamil Nadu quashed the aforesaid amendments to the Tamil Nadu Gaming Act, 1930 as ultra vires the Constitution⁷.

The Kerala High Court invalidated the state government's aforementioned notification banning online rummy for stakes in September 2021, reasoning that it was arbitrary, unlawful, and in violation of constitutional rights, including the right to trade, business, profession, and occupation.⁸ The court ruled that stakes cannot be used as a factor in determining whether a game is based on skill or chance, and significant decisions by the Supreme Court have established that rummy is still a "game of mere skill" and is, therefore, excluded from the restrictions of the Kerala Gaming Act 1960.

2.2 Game of Chance & Game of Skill:

While modern gambling involves, among other things, computers connected offline or online, mobile phones, and the Internet, traditional gambling is understood in terms of its physical format. Since "games of skill" are not considered gambling under the gambling laws, they are not subject to the associated penalties. Horse racing, game of skill and lottery does not come

⁷ Saakshi Anand, "Internet Gambling in India: Regulation or Prohibition?", Vol 4, JOURNAL ON CONTEMPORARY ISSUES OF LAW [JCIL], 173-187, 2020.

⁸ Ankur Jain, "Gambling in India: A Study from the Perspective of Law and Economy", Vol 6, PEN ACCLAIMS, 1-21, 2019.

under the ambit of gambling under Indian laws. In Game of skill, the player has prior knowledge and experience about the game, and success depends upon that itself, skill is the predominant factor⁹. Whereas the game of chance depends upon luck, where the outcome of the game cannot be predicted. It is banned in most of the states in India. Since Public gambling act 1867 is an age old legislations, it does not contain any regulations with regard to online or internet gambling, therefore Indian courts have given various judgments on whether online gambling comes under the purview of game of skill which is not banned in india mostly or game of chance, which is completely prohibited and punishable. For example, only Nagaland under Nagaland Prohibition of Gambling and promotion and regulation of Online games of skill act, 2015 deals with this exclusively and otherwise, in India there is no legal definition to what comes under game of skill.

In R.M.D. Chamarbaugwala v Union of India, the Supreme Court of India has excluded betting on horse racing and rummy cannot be considered as gambling. Gambling couldn't be considered trade or business under fundamental rights¹⁰. When a certain level of skill is involved it cannot be considered gambling.

In State of Andhra Pradesh v K. Satyanarayana and Ors, 1967 the Court held that:

"The game of Rummy is not a game entirely of chance like the 'three-card' game mentioned in the Madras case to which we were referred. The 'three card' game, which goes under different names such as 'flush', brag etc., is a game of pure chance. Rummy, on the other hand, requires a certain amount of skill because the fall of the cards has to be memorized and the building up of Rummy requires considerable skill in holding and discarding cards. We cannot, therefore, say that the game of Rummy is a game of chance. It is mainly and preponderantly a game of skill. The chance in Rummy is of the same character as the chance in a deal at a game of bridge¹¹."

In Manoranjitham Manamyil Mandram v State of Tamil Nadu¹², the Court held that:

"Therefore, while it is the right of the appellant to have recreational activities which are not prohibited, the respondent's right to take appropriate proceedings against illegal games of betting, wagering, etc. is also provided for under the Act. Therefore, there cannot be a blanket

⁹ Ujjwal Singh, "Gaming and Gambling: The Era of Dream11 and Crashing Dreams, Vol 1, Global Sports Policy Review, 42-58, 2021.

¹⁰ The State of Bombay v. R. M. D. Chamarbaugwala AIR 699, 1957.

¹¹ State of Andhra Pradesh v. K. Satyanarayana & Ors AIR 825, 1968.

¹² Manoranjitham Manamyil Mandram v. The State Of Tamil Nadu And Ors. AIR 2005 Mad 261.

direction as prayed for by the appellant. The question whether a particular game is a game of skill or chance is to be decided on the facts and circumstances of each case. As and when proceedings are; initiated against the appellant in accordance with law, the appellant shall always have the right to question the same or challenge the action of the respondents if it is not in accordance with law.¹³

The Public Gambling Act, 1867 by virtue of Section 12, excludes 'game of skill' from the purview of law. The Hon'ble Supreme Court, in *Dr. R. K. Lakshmanan v. State of Tamil Nadu*¹⁴ defined 'game of skill' as "*one in which success depends principally upon the superior knowledge, training, attention, experience and adroitness of the player*"¹⁵. The Court held that a game of chance is one in which the element of chance predominates over the element of skill and similarly a game of skill is one in which the element of skill predominates over the element of chance¹⁶. It is the dominant element "skill" or "chance" that determines the true character of the game.

2.3 FANTASY SPORTS

The Fantasy Sports industry has expanded tremendously during the recent years. There are applications and websites that allow users to participate in fantasy sports systems like the Dream 11. In the year 2016, the Indian online gaming market value was estimated at a whopping 300 million USD which is expected to rise 3.4 times by the year 2021 to 1.0 billion USD¹⁷. In fantasy sports games, the user is challenged with forming a team from each participant in a given match of a given sport on a given day. The user must pay a price to enter a contest that is being given on these platforms after creating their team.

Recently, google play store has banned paytm as paytm started UPI cashback called cricket premier league which violated google guidelines that restricts and prohibits any direct or indirect involvement of any form of gambling. Google has sent the same notice to food delivery apps like zomato and swiggy, offering cashback points to customers predicting certain aspects of Indian premier league (IPL). In dream 11, to predict the outcome of the game, players are selected, forming their own dream team which is the best possible combination. Points are

¹³ *ibid.*

¹⁴ *Dr. K.R. Lakshmanan v. State Of Tamil Nadu And Anr*, 1996 AIR 1153, 1996 SCC (2) 226.

¹⁵ *ibid.*

¹⁶ Ankur Jain, "Gambling in India: A Study from the Perspective of Law and Economy", Vol 6, PEN ACCLAIMS, 1-21, 2019.

¹⁷ S. Diwanji, 'Online Gaming Market Value across India in 2016 and 2021' Statista (27 March 2020) accessed 29 October 2022.

scored upon the performance of the players. Selection of players does not influence games outcome but game outcome influences winning outcome.

In 2017, the Punjab and Haryana High Court became the first Indian court to find that a fantasy sports game is mostly dependent on talent. In this case, the plaintiff was a participant on the Dream11 platform, which was run by the respondent corporation, Dream11 Fantasy Private Limited ('Dream11'). While participating in a fantasy sports game competition given by the respondents, the plaintiff lost 50,000 INR¹⁸. The plaintiff filed a complaint with the Punjab and Haryana High Court, arguing that fantasy sports were not based on talent and that Dream11 was engaging in activity that fell under the definition of "gambling" under Punjab's gambling statutes, which barred such activities. The P&H High Court based its conclusion on the Supreme Court's ruling in *K.R. Lakshmanan vs State of Tamil Nadu*¹⁹. Also, and playing fantasy sports games required the same degree of ability, judgement, and prudence as horse racing, according to the P&H High Court, and hence was not dependent on chance.

High Courts of Bombay in *Gurdeep Singh Sachar v Union of India*²⁰ and *Rajasthan Ravindra Singh Chaudhary v Union of India & Ors*²¹, in different cases, have also affirmed that Dream 11 could not be found guilty of engaging in gambling or betting under the pretense of playing online fantasy sports because it upheld the status of fantasy sports as a game of skill. Unlike betting, winning or losing in fantasy sports was not dependent on any team winning or losing in the real world. The Supreme Court recently in *Avinash Mehrotra v. State of Rajasthan*²² held that Dream11 fantasy sport is a business activity and is entitled to the fundamental right conferred under Article 19(1)(g) of the Constitution of India.

CHAPTER 3

INTERNATIONAL PERSPECTIVE

Betting laws in the United Kingdom

The betting market in the UK is not quite like that in India. The Gambling Commission was set up by the Gambling Act of 2005 to oversee legalized commercial gambling in the UK. The

¹⁸ *Shri Varun Gumber v Union Territory of Chandigarh & Ors*, 27511/2017.

¹⁹ *ibid.*

²⁰ SLP No. 43346/2019

²¹ Civil Writ Petition No. 20779/2019.

²² SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 18478/2020.

Gaming Act of 2005 mandates that all providers of remote gambling, including online and telephone gambling, get a license. The license is related to the specific online activities that the operator offers, not whether or not they offer online gambling. Each of the following activities, including betting, bingo, casinos, gambling software, and lottery games, will need its own license. There is no restriction on the number of licenses that can be applied for by individuals or businesses (whether they are domiciled internationally or in the UK), so long as the applicant obtains the regulator's permission and fulfills the regulatory standards for qualification as a gambling operator.

The primary governing body for gambling in the UK, both offline and online, is the Gambling Commission. It was developed following the passage of the Gambling Act of 2005 and modernised gambling laws and rules to keep pace with technology, notably online gambling. In the UK, gambling is subject to a wide range of laws and rules. They cover topics such as operator advertisement restrictions, anti-underage gaming, know your customer standards, anti-money laundering checks, and fraud prevention. The Gambling Act of 2005 and the Gambling Commission's website both provide an overview of key regulations. Customer identification verification procedures are among the most obvious rules²³. Before allowing customers to play, they make sure that a thorough onboarding process verifies their identities. The Gambling Commission will not require a license for gambling websites that do not have their remote technology resources situated in the UK. The website must be located in one of the nations on the list or one that is specifically mentioned in the Gambling Act of 2005 if online gambling items from websites located outside of the UK are being advertised there. The Gambling Act of 2005, which serves as the foundation for all gambling legislation, is now being reviewed by the British government to determine whether it is still relevant in the digital age. Over the past ten years, gambling businesses in the United Kingdom have increased dramatically as smartphones have made online gambling widely available.

United States of America

By accepting bets online, internet service providers especially those without license from other nations may be breaking federal regulations in the United States. Congress passed the key law, the Wire Act, 1084, as part of the "war on organised crime" in 1961. It was stated that the Wire

²³ McGee, "On the normalisation of online sports gambling among young adult men in the UK: a public health perspective", Volume 184, Public Health, Pages 89-94, 2021.

Act was enacted to guide the states in enforcing their gambling laws, comparable to other federal anti-gambling statutes. Owing to the technology available at the time for international gambling, the Wire Act targeted illegal gamblers who placed telephone wagers on various sports.

In 2018, the U.S. Supreme Court decisively held in *Murphy v. NCAA*²⁴ the Tenth Amendment to the United States Constitution was violated by the Professional and Amateur Sports Protection Act. This decision opened the door for states to liberalize their sports betting legislation, along with other social trends. Since *Murphy*'s ruling, sports betting has been made legal in some form in 18 U.S. states plus the District of Columbia²⁵. Eleven states have made online sports betting particularly lawful. Governments now have a great opportunity to control and tax the most profitable market in America as a result of new legalisation and regulation of sports betting. A profitable black market for sports gambling has become an open industry owing to the legalisation and regulation of this conduct²⁶. Furthermore, it has replaced unrecorded corporate transactions with taxable and properly documented ones. It has also promoted a number of critical questions on how American society should strike a balance between the conflicting goals of preserving individual autonomy.

Finally, a truly free market for legalized sports gambling has not been established by some of the new state legislation passed in the aftermath of *Murphy*.

Instead, they have resulted in a tightly controlled oligopoly market where state officials have given a few dominant, big businesses control over the legal sports gambling sector²⁷. In any state that allows sports gambling of any form, any entity intending to offer it must first obtain a license from the relevant state agency. This shows that independent contractors are not allowed to offer sports betting services in any capacity by any state.

A potential license applicant for an internet gambling firm is sometimes allowed to partner with a casino that runs a physical presence in jurisdictions that allow online sports betting²⁸. In addition to licensing fees, authorized sports gambling operators are required to pay an annual

²⁴ *Murphy v. National Collegiate Athletic Assn.*, 2017.

²⁵ Brad Humphreys, "An Overview of Sports Betting Regulation in the United States", 14, Economics Faculty Working Papers Series, 2017.

²⁶ William Eadington, "The Future of Online Gambling in the United States and Elsewhere", Volume 23, Journal of Public Policy & Marketing, 214-219, 2004.

²⁷ Michaela D. Platzer, *Internet Gambling: Policy Issues for Congress*, Congressional Research Service, 2016.

²⁸ Nelson Rose, "Gambling and the Law: An Introduction to the Law of Internet Gambling", Volume 10, UNLV Gaming Research & Review Journal, 1-14, 2005.

tax to each state in which they operate. The amount of this tax varies by state, with most states settling on a tax rate between eight percent and sixteen percent of gross gaming revenue²⁹.

CHAPTER 4

276th Law Commission Report

Legal Framework: Gambling and Sports Betting including in Cricket in India

In the case of BCCI vs Cricket Association of Bihar and Ors³⁰ (2016), the Delhi Police took action in 2013 after receiving information of spot-fixing in the IPL, leading to the filing of a case against the owners of two teams, the Rajasthan Royals and the Chennai Super Kings.

In this decision, the Supreme Court took into account the "Report on Cricket Reforms" by Justice R.M. Lodha, which advised legalizing sports betting to assist reduce sports fraud and get rid of unethical behavior among athletes. Additionally, it was claimed that because the board is an independent entity, its functions are neither public nor government-related. Following this judgment, the Supreme Court asked the panel to carefully consider the problems associated with legalizing betting in India. The commission has encouraged cashless wagering on sporting events as a way to boost revenue and combat illegal gambling.

The commission has stated that since it is impossible to stop illegal gambling, the only viable option left is to regulate gambling in sports³¹. The Parliament has the option of passing a model law for states or legislating in accordance with Articles 249 or 252 of the Constitution, which give it the authority to pass laws on state matters that are in the interest of the country as a whole. According to the report, if these activities were regulated, they would guarantee market transparency and put a stop to the illegal and unregulated gambling industry.

- The revenue can be put toward projects that benefit the community. For this reason, income from gambling ought to be taxed in accordance with regulations such the Income Tax Act and the Goods and Services Tax Act.
- Gamblers' and operators' transactions ought to be connected to their PAN and Aadhaar cards so that the government can monitor them.
- The Commission has set an age restriction of 18 years or older for gambling.

²⁹ US Sports Betting Revenue 2020, THE LINES, <https://www.thelines.com/betting/revenue/> [<https://perma.cc/2JP3-EZBW>] (last visited November 30, 2022).

³⁰ Board Of Control For Cricket v. Cricket Association Of Bihar, CIVIL APPEAL NO.4235 OF 2014.

³¹ Law Commission of India Report 276

- The commission suggested categorizing gambling into "proper gaming" and "small gambling."
- It is recommended that IT regulations be changed to allow intermediaries in places where gambling is legal to host and transmit gambling-related content.
- It is suggested that the government should set a limit on the number of gambling transactions each person is allowed to make on a monthly, semi-annual, and annual basis. When using electronic payment methods like credit cards, debit cards, and net banking, limits on amount should be set. Additionally, gambling websites should not support any form of pornography.
- Match-fixing and sports fraud have been suggested as criminal acts that should carry severe penalties by the Commission.
- Only Indian licensed operators from India who have current licenses issued by the gaming licensing authorities should offer gambling and betting, if any.
- Regulations must guard against the exploitation of vulnerable populations, including minors, those living in poverty, people who depend on government assistance programmes, Jan Dhan account users, and people who get social welfare benefits.
- The commission contends that laws and regulations governing foreign exchange management and foreign direct investment need to be changed in order to promote investment in the casino and internet gambling sectors. Tourism and employment opportunities would be aided by this.

A CRITICAL PERSPECTIVE OF THE REPORT

The Report does not examine any statistics on the effects (financial, social, or political) of these laws on those nations or the outcomes that have been produced as a result of regulating the betting market in other nations.

The Indian states of Sikkim, Goa, and Nagaland have all legalized controlled betting and gaming, each with specific regulations. In light of this, the Report may have obtained feedback from stakeholders in these states on the enactment and implementation of these state-specific betting control laws. The Law Commission might have used these inputs as data to better understand the problem by analyzing the information available on the economic and social implications of enacting such regulatory frameworks in these jurisdictions. Unfortunately, the Law Commission failed to examine these states' regulatory systems. Laws are not created in a vacuum; rather, they are dependent on the socio-economic conditions of the societies to which

they are applied³². By reviewing several laws that apply to betting or gambling, as the Report has done, is insufficient to determine legislative action. It will be necessary to analyze how betting control laws affect the individuals and to give careful consideration to the procedures that would work best to regulate betting and gambling in the Indian context.

CONCLUSION

On December 28, 2018, a private member's bill headed "Sports (Online Gaming and Prevention of Fraud) Bill, 2018" was introduced in the Lok Sabha. The Sports Bill's Statement of Objects and Purpose emphasized that it was proposed with the multiple goals of protecting sportsmanship and establishing a legal framework for online sports betting. The Sports Bill, however, dissolved when Parliament was dismissed ahead of the general elections and has not been resurrected. Legalizing gambling may be advantageous since it will help to reduce corruption, enhance the economy, and reduce the production of illicit funds. Technology is the key component that will enable us to advance as a civilization and provide a future solution to every issue. Therefore, while there is certainly cause for concern about the effects of allowing technology to permeate sport, there is also no good reason to act in the opposite direction. What we need to realize is that laws and other rules are necessary to control the expansion of Fantasy sports since their ascent must be accepted as inevitable. If there were no rules governing fantasy sports, an imbalance could be created. States are in fact possible future financial regulators, thus such a situation would be very bad for nations. Therefore, it is important to recognize that "managing fantasy sports rather than "eliminating is what is needed. The nation can draw ideas from other nations with laws and regulations already in place to deal with fantasy sports to better understand and create models for such regulation. As a result, we must acknowledge the significance of regulating fantasy sports and take significant steps to bring about legislations for the industry of Fantasy Sports and Online Gambling.

SUGGESTIONS

1. Regulation over Prohibition

Instead, the government should regulate these activities as this will help in taxing such transactions which will generate revenue for the government and the same can be used for

³² Saakshi Anand, "Internet Gambling in India: Regulation or Prohibition?", Vol 4, JOURNAL ON CONTEMPORARY ISSUES OF LAW [JCIL], 173-187, 2020.

public welfare. Also, regulation will ensure that the online websites are monitored and no unethical activities are being practiced like fraud and money laundering. Regulation will also place provisions in check which will not allow minors to gamble online. It has also been argued that prohibition will not completely eliminate such activities, instead lead to the creation of a parallel economy which will generate black money and would be harmful to the country's economy. Regulating online gambling would also ensure licensing which will ensure fair practices and also see that consumer's security and privacy are not jeopardized. Also, consumers would be provided with a legal mechanism in case of infringement of their rights or if they are victims of fraud, they can always seek legal protection which cannot be done in case of prohibition.

On the other hand, due to the advancement of technology and the extent of the internet, which will allow bookies to access online gambling sites, it is also impossible to entirely ban it. Therefore, banning such behaviour would not be effective. The government should regulate these operations instead since doing so will make it easier to tax them, which will bring in money that can be used for the general welfare of the population. Additionally, legislation would guarantee that internet websites are monitored and that unethical practices like fraud and money laundering are not being used. Legislation that regulates it, will also place limits on laws that forbid children from gambling at internet casinos. It has also been suggested that prohibiting some activities won't totally stop them; rather, it will lead to the development of a parallel economy that will produce illicit wealth and be detrimental to the national economy. In addition to licensing, which will ensure fair procedures and make sure that consumers' security and privacy are not compromised, regulation of online gambling would also assure licensing. Additionally, customers would have access to a legal system that would allow them to always seek legal protection in the event of a violation of their rights or if they are the victims of fraud, something that is impossible in the event of prohibition.

Self regulatory body

Using the United Kingdom as an example, India might establish a self-regulatory organization with the authority to create rules for online gaming and betting platforms that specify the requirements for conduct that must be met under the law. Secondly, the organization can recommend that the relevant states alter the laws governing online gaming and gambling as needed. Thirdly, the organization might be established in charge of issuing licenses to a legal website after taking into account its user-friendly policies and business models. The

organization may also provide a yearly report on unlicensed players, bookmakers, or websites that are currently operating a black market, defrauding players, or engaging in unlawful gambling in the nation.

2. Licensing

Considering the Nagaland Act, Licenses could be needed for some services, depending on their type and the distribution channel they plan to use. To participate in fantasy sports betting, a license could be obtained. Although there are limitations on the number of slot machines, etc. that can operate under a single license, there is no cap on the number of licenses that may be offered. Subject to meeting any requirements that may be required, licenses have a five-year term and are then presumed to be renewed annually as long as the license price is paid. In Sikkim, for both casinos and online games, the licence will be valid for five years, and may be renewed upon an application being made. Goa, Daman and Diu, the licence is valid for five years.

According to the Nagaland Act, the majority ownership must be in India, and the licensee's executive decision-making functions must be carried out from within the Indian territory. Other requirements for obtaining a license include that the licensee be an entity incorporated in India, have a significant holding stake in India, and have no criminal history. Unfortunately, the Nagaland Act makes no mention of a cutoff point for this criterion to be satisfied. The licensee's technology support (website hosting, management, server placement, etc.) must be performed entirely within India. Only skill-based games on online media are permitted to be sold with licenses. A fee of a good amount can be charged from the licensor like Nagaland charges a non-refundable application fee of INR 50,000. Like in Goa, the cost of a licence is INR 2 million for onshore and offshore casinos, regardless of the number of tables or machines installed in the licensed premises.

3. Social Welfare

In order to ensure social welfare, some self-regulatory industry associations, such as the AIGF and the Indian Federation of Sports Gaming (IFSG), have established certain guidelines that online gaming and gambling websites must follow. These guidelines include player protection measures, such as age- and self-exclusion options, transparency requirements, and provisions to regulate the use of digital money.

4. Gambling Management Tools

India uses the 12-digit Aadhaar identifying number to access and use a wide range of services. It is based on the gathering of a person's biometric and demographic information. To provide the Aadhaar scheme legal support, the Aadhaar Act, 2016, was introduced. The law commission's 276th report recommended linking the user's and the website owner's Aadhaar and Pan cards.

5. TAX

Any winnings from lotteries, crossword puzzles, card games, or other games of any kind that over INR 10,000 are subject to a 30% withholding tax under Indian income tax legislation. The payor must make sure that the tax at the above rate is paid before the entire winnings are released to the payee in cases where the winnings are entirely in kind or partially in cash and partially in kind and the cash component is insufficient to honor the withholding obligation in respect of the entire winnings. Additionally, there is a 28% GST rate that is applied to any betting or gambling services offered by casinos based on the transaction value of the bets. No GST may be charged if a gaming activity (in the case of a game of skill) does not qualify as betting or gambling. The consideration amount payable or collected for the supply of goods or services, or both, on a gaming platform, however, may be subject to GST at a rate of 18%.

BIBLIOGRAPHY

JOURNALS

- Ujjwal Singh, “Gaming and Gambling: The Era of Dream11 and Crashing Dreams, Vol 1, Global Sports Policy Review, 42-58, 2021.
- Ankur Jain, “Gambling in India: A Study from the Perspective of Law and Economy”, Vol 6, PEN ACCLAIMS, 1-21, 2019.
- Saakshi Anand, “Internet Gambling in India: Regulation or Prohibition?”, Vol 4, JOURNAL ON CONTEMPORARY ISSUES OF LAW [JCIL], 173-187, 2020.
- McGee, “On the normalisation of online sports gambling among young adult men in the UK: a public health perspective”, Volume 184, Public Health, Pages 89-94, 2021.
- Brad Humphreys, “An Overview of Sports Betting Regulation in the United States”, 14, Economics Faculty Working Papers Series, 2017.
- Sanju George, “Should Gambling Be Legalized in India?”¹, Indian Journal of Psychological Medicine, 1-5, 2020.
- William Eadington, “The Future of Online Gambling in the United States and Elsewhere”, Volume 23, Journal of Public Policy & Marketing, 214-219, 2004.
- Nelson Rose, “Gambling and the Law: An Introduction to the Law of Internet Gambling”, Volume 10, UNLV Gaming Research & Review Journal, 1-14, 2005.

REPORTS

- Law Commission of India Report 276
- FICCI-KPMG. The power of a billion: realizing the Indian dream. FICCI-KPMG report,2013. <http://ficc.in/spdocument/20217/FICCI-KPMG-Report-13-FRAMES.pdf>
- Michaela D. Platzer, Internet Gambling: Policy Issues for Congress, Congressional Research Service, 2016.

ONLINE SOURCES

- US Sports Betting Revenue 2020, THE LINES, <https://www.thelines.com/betting/revenue/> [<https://perma.cc/2JP3-EZBW>] (last visited November 30, 2022).