



POSTULATING GAMBLING AND BETTING LAWS FOR THE NEW ERA: UNEARTHING A SUBTERRANEAN PRELIM

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ABSTRACT

In the past two decades, public awareness of capital resources has increased manifold; people have become aware of trades and games of skill made to profit. Among the games played for monetary enrichment and recreation, gambling and betting are the most prominent ones. While gambling and betting are deeply entrenched in the Indian culture, Indian law and policymakers have long considered the activity a vice and shunned any involvement in the game through the British-era legislation Public Gambling Act, 1867 which forbids gambling. With a paradigm shift in the gaming industry, the act stands mainly unamended after over 160 years since its inception. The technological advancement and innovations in sports betting and gambling have left the act archaic and need reformation. Many suggestions have been made by commissions set up by the Supreme Court of India and the parliament for the reformation of the gambling act by ultimately legalising betting and gambling for the socio-economic benefit of the country. The paper argues that a comprehensive legal framework is required to regulate gambling and betting activities in India, which should focus on skill-centric games, fair practices, and ensure that interested bettors and gamblers register themselves before a licensed operator. It also discusses the need for a modern protocol for licensed gambling and betting has become more pressing than ever, with the emergence of blockchain-based platforms and the acceptance of cryptocurrencies as a method of payment. The paper recommends that India should follow the examples of other countries and adopt a law on gambling that supersedes all existing contradictory statutory regulations.

Keywords- Betting, Public Gambling Act, Lodha Committee, Blockchain, Cryptocurrency, Fantasy Sports, Archaic, Legalizing.

1. INTRODUCTION

Gambling has been prevalent as a form of recreation in India, deeply rooted in its culture since time immemorial. However, in recent years, this game has built a vast market in India such that it is now not just a leisure activity but has also catapulted as a way of business for many people.

While gambling is ubiquitous in Indian society, where people bet on political outcomes or when they play cards, or before cricket matches, the Indian laws have failed to recognise these activities as a legitimate form of entertainment. On the other hand, it has become commonplace for sports stars with massive followings, such as cricketer Virat Kohli, who boasts over 240 million followers, to endorse and advertise sports fantasy apps. (Singh, 2019) However, the surge in advertising for these sports fantasy apps has raised concerns about the lack of regulations in place to monitor and control the impact these apps may have on users who are lured into playing them through such promotions.

The Public Gambling Act, 1867, a British-era prohibitionist law, continues to govern betting and gambling activities in India, even though they fall under the state list. (George, 2014) Ironically, while India stills follow the archaic statute that declares gambling as an illegal practice in the country, except few states that have legalised the practice by enacting state legislation, the English law has regulated and legalised various forms of gambling by introducing the Gambling Act, 2005. Various supreme court judgements have legalised certain forms of gambling which include horse racing and rummy, respectively, as these games are based on skill instead of mere luck, thereby overturning the blanket ban imposed by the Public Gambling Act, 1867. Thus, in 2017, the Supreme court of India decided to review the legality of sports betting in India, raising conflict issues with several state enactments that have announced that the activity is illegal in their respective regions (Lodha, 2018). Subsequently, in 2018, the 276th Law Commission Report, commonly known as the Lodha Committee Report, also recommended the regulation of gambling activities in India, akin to other countries like the United Kingdom and Spain (Lodha, 2018).

This paper presents an overview of the gambling and betting laws prevalent in India and critiques the outdated Public Gambling Act, 1867. It further discusses the existing moral inhibitions associated with gambling which force the colossal market to stay underground, thereby increasing the circulation of crores of black money. This, in turn, poses a hindrance to India's economic development while other countries like United States benefit from the profitable gambling market. The paper also discusses online sports betting and gambling especially in light of recent technological advancements such as blockchain-based platforms and the acceptance of cryptocurrencies as a method of payment for gaming services in order to examine the challenges and opportunities posed by these new technologies, and propose recommendations for a modern

protocol for licensed gambling and betting that is in line with the advancements of the real world and is a token of liberal faith in aid of public policy. The paper concludes with the need to draw a detailed and nuanced legal framework that regulates gambling activities in India.

2. A BRIEF PRATE OF GAMBLING V. BETTING

One of the earliest civilizations to engage in gambling were the Romans and Greek. According to archaeological studies, gambling was popular even among the first cavemen. Cave drawings of gambling provide evidence that it existed in ancient times. The discovery of astragali, or dice-like devices, carved out of sheep or dog ankle bones that date back 40,000 years, adds to the body of evidence that suggests there was gambling in ancient Europe. (Black, 2022) Dice pairs, some of which were "loaded" to fall a specific way, have also been discovered in the Pompeii remains. When it comes to India, gambling and betting have been commonly played since the time of Ramayana and Mahabharata between 2000BC and 1500BC, when kings used to put their kingdoms at stake during their casual gambling matches and sporting animal fights like bull races and gladiator fights. Ancient texts like Rigveda and Atharvaveda also have mentioned glorifying these "games of dice". (George, 2017)

However, several ancient texts have taken a cynical approach towards such activities. According to Manu Smriti, betting and gambling activities must be prohibited as they are a mechanism of self-destruction. That is to say that they dismantle truth, honesty, and wealth, and a majority of the population labelled all gamblers as cheats. As a result, a disgruntled Chanakya suggested various laws that regulated gambling activities, and the violation of such rules would invite huge penalties on those who indulged in the activity (Lodha, 2018). Arguments favouring regulating gambling call for dissociating morality from gambling. It is believed that the connection between the two is merely derivative and associative. Therefore, it becomes easier to regulate it as an activity by liberating the concept of gambling from unwelcomed moral negativity. Under Articles 19(1)(g) and 301 of the Constitution of India, gambling and betting activities were declared *res extra commercium*. Gambling is not protected under the bounds of freedom of trade and profession. It has been declared as harmful to society in the *State of Bombay v. RMD Chamarbaugwala*.

Black Law's Dictionary defines gambling as a game consisting of 3 components: consideration, an element of chance, and a reward. In other words, gambling is the payment of the price of a chance to win a prize. On the other hand, betting is the act of putting a certain wagering amount (usually in the form of liquid cash) at stake on the occurrence or non-occurrence of a particular event. Two parties that take opposing sides are involved in betting. (Pawar & Lohiya, 2017)

While gambling and betting are usually perceived as wagering events, the Madras High Court, in *Public Prosecutor v. Veraj Lal Sheth*, laid down the distinction between the two terms. It held that the stakes-placed during gambling are not calculated, whereas the stakes of an event in betting depend on the performance of the players. (Public Prosecutor v. Veraj Lal Sheth, 1915) Thus, while gambling implies putting money on the occurrence or non-occurrence of an event, thereby ignoring the outcome, betting on sports is influenced by the skill of the betters as they make informed

decisions contingent upon the players' performance. Therefore, games of chance in India, where the winner is predominantly determined by luck are categorised as betting. On the other hand, games where the participation in wagering events is decided on the basis of skill and knowledge are known as games of skill. (Motwani, 2014)

The Supreme Court of India, while upholding the "Skill Test" in *State of Andhra Pradesh v. K. Satyanarayana & Ors.*, classified rummy as a game of skill as the game requires superior knowledge and attention of the player. In another case of *K.R. Lakshmanan v. State of Tamil Nadu & Anr.*, the Apex court observed that horse-racing is a game of skill as the outcome of the race depends on several factors like the fitness of the horse and jockey's ability, making the skills of observation and study of the game pre-requisites of predicting the winner. (Puri, p.4) In the United States of America, the Dominant factor test determines whether a particular game is one of skill or chance. In *Dr KR Lakshmanan v. Tamil Nadu*, the apex court concluded that a game like horse racing that involves "substantial or preponderant" amounts of skill are termed as games of skill. (Lodha, 2018) In other words, the dominant factor test is satisfied if a skill is a dominant trait required in a game compared to the element of chance, making the sport skill-based.

3. STATUTORY PROVISIONS PERTAINING TO BETTING AND GAMBLING LAW IN INDIA.

The Public Gambling Act, 1867 is the central law in India governing all gambling and betting activities, making them illegal except for games of skill. (The Public Gambling Act, 1867) However, the seventh schedule Entry 34 List II of the Constitution of India empowers the states to regulate gambling and betting activities. (Constitution of India, 1950) Thus, the state government authorities may either adopt the Central Act or introduce any amendments that they may deem best for their region. Gambling and betting are predominantly illegal in India but they are prevalent all over India owing to the outdated law which lacks clarity on its regulation. Only Sikkim and Nagaland have specific laws for online gambling, while other states face challenges due to the absence of proper regulations. The Public Gambling Act has been deemed obsolete and in need of immediate reform by the Lodha committee. (Lodha, 2018) The Act excludes wagering agreements, betting on horse races, games of skill, and lotteries. Lotteries fall under the central list and are excused from the gambling ambit, while betting on horse racing is legal due to its considerable skill element. (*K.R Lakshmanan v. State of Tamil Nadu*, 1996)

Various statutes in India encompass gambling under their domain due to its absence in the Public Gambling Act. The Indian Penal Code, 1860, Sections 292 and 294, can be applied if obscene matter is used for advertising betting or gambling. The Indian Contract Act, 1872, Sections 23 and 30, prohibits enforceability of wagering transactions, except for betting on horse-racing. The Prevention of Money Laundering (Amendment) Act, 2013, Section 2(1) (a), penalizes money laundering in businesses, including games of chance and casinos. The Income Tax Act, 1961, Section 115BB, levies taxes on gaming industry earnings. The Central Goods and Services Tax Act, 2017, ensures revenue from betting, gambling, and horse races through the GST system. The

Information Technology (Intermediaries Guidelines) Rules, 2011, prohibits intermediaries from hosting gambling-related information. The Telecom Commercial Communications Customer Preference Regulations, 2010, prohibits unsolicited betting or gambling communication. The Foreign Exchange Management Act, 1999, and Reserve Bank of India regulations forbid remittances for gambling purposes, making financial transactions illegal.

Most Indian states adhere to the Public Gambling Act, 1867, excluding games of skill from gambling. However, Sikkim, Nagaland, Meghalaya, Goa, and Daman & Diu have made exceptions. In Goa and Daman & Diu, land-based casinos are regulated under the Goa, Daman and Diu Public Gambling Act, 1976, with strict regulations and licensing requirements. In Sikkim, Nagaland, and Meghalaya, online gaming is governed by state-specific laws, allowing games of skill like poker and fantasy sports under strict licensing and regulations. (Sikkim Online Gaming (Regulation) Act, 2008; Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016; Meghalaya Regulation of Gaming Act, 2021)

On the other hand, states like Telangana, Orissa, and Assam have completely banned gambling and betting. Karnataka amended its law to make gambling a non-bailable and cognizable offense, including online gambling under its purview. (Karnataka Police (Amendment) Act, 1963) Government-run lotteries are sanctioned in 13 states and 5 Union Territories, regulated by the Lotteries (Regulation) Act, 1988.

4. INSPECT ON SOME INTERNATIONAL LEGISLATIONS

Countries around the world have tackled the issue of gambling in their own unique ways. In the UK, gambling is mainly identified in three forms- betting, gaming, and participating in a lottery. It is primarily governed by the Gambling Act, 2005, which criminalises availing gambling facilities without British licenses. Extensive restrictions are imposed on the issuance of licenses to prevent crimes such as money laundering and terrorist fairness and ensure transparency, consumer fairness, and responsible advertising of gambling-related activities. (Gambling Act, 2005)

A three-tier system of control has been established to ensure that gambling is fair and done only with permission. The system includes the Government Department of Culture, Media, and Sport, Gambling Commission, and Local Authorities (Hinckley & Bosworth Borough Council, 2023).

Countries like Spain and Switzerland have established legalisations that support betting and gambling institutions. In Spain, betting and gambling have been decriminalised since 1977; while they have preserved the autonomy of states to decide on the legality of gambling that has introduced a cohesive central Spanish Gaming Act, 2011 to regulate all forms of electronic and interdisciplinary betting activities. (Spanish Gaming Act, 2011) Switzerland decided to condone betting in 2017 through the Money Gaming Act; they liberalised betting activities and allowed online gambling only through licensed Swiss-certified gaming firms and casinos. (Money Gaming Act, 2019)

In the United States of America, Nevada and Louisiana have legalised casino-style gambling under state laws while maintaining licensing and zoning restrictions for the game. Nevada also allows sports betting. Japan boasts one of the world's largest betting populations; it created a new market by legalising sports betting on sports such as horse racing, cycling, motorbike racing, and boat racing (Lodha, 2018). Besides the afore-mentioned places, multiple countries in Europe have legalised betting and gambling, gathering over Eighty-seven Billion Euros in Gross Gaming Revenue (GGR) in 2021. China's State Lotteries have also accumulated over \$29.3 billion in the first half of 2021 (Variety, para.2).

5. POLICY SUGGESTIONS ON BETTING AND GAMBLING

The sixth season of the Indian Premier League was organised in 2013. The League raised eyebrows on questions pertaining to sports betting and match-fixing, calling for the need for policymakers to revitalise their policies in order to keep a check on such malpractices. (Mahyera, p.365) As a result of the 2013 scandal, the Mudgal Committee under Justice Mukul Mudgal was appointed to investigate the spot-fixing and illegal betting charges that had surfaced.

The committee's findings revealed that a large number of people associated with the Cricket league indulged in match-fixing and hedging bets through the use of black money in illegal private markets. The Committee made several recommendations, like devising a separate law that dealt with match-fixing and betting and that IPL governing should be independent of the BCCI.

On request of the hon'ble Supreme Court in the matter of *Board of Control for Cricket in India v. Cricket Association of Bihar & Ors.* (2016), a committee was established by the Law Commission of India to analyse the current concerns surrounding gambling regulations in India and suggest recommendations for the same. The Justice Lodha committee presented a report on the same, titled *Legal Framework: Gambling and Sports Betting, including in Cricket in India*; the report recommended that the government consider it necessary to enact a law to legalise betting in India. It was realised that the idea of implementing a complete ban on gambling, an activity so intricately rooted in the daily lives of people, is inconceivable. Further, while working on their analysis for the report, the committee understood that betting cannot be taken independently of gambling and that both the issues were intertwined; therefore, the committee conjointly made a thorough stance on the regulations preceding gambling and betting (Lodha, 2018).

Following the release of the Lodha Committee Report by the Law Commission of India, which indicated the involvement of athletes in match and spot-fixing, the Online Gaming and Prevention of Fraud) bill was introduced by Shashi Tharoor, the Member of Parliament from Thiruvananthapuram in the Lok Sabha for regulating sports betting. The Bill proposed the legalisation of sports betting in India under strict surveillance and ordered the criminalisation of activities like sports fraud and match-fixing. (Dwivedi, 2022) Articulated by legal stalwarts, the bill also suggests the formation of a seven-member committee for monitoring online sports gaming activities, thereby ensuring that the integrity of the sport is maintained and preventing any manipulations that dent the natural course of the game. In addition to this, the Bill also defined

online sports gaming as placing a bet either wholly or partially on the outcome of a match using a telecommunication device. It suggested certain restrictions that could be implemented to prevent the misuse of the gaming program, like barring minors from participating and placing limits on the highest bidding amount.

There has been a considerable increase in the Indian betting market, which can be evidenced from the report issued by International Centre for Sports Security ("ICSS"), where ICSS claims that the betting market in India could be worth over US\$130 billion. (Tak, 2018.) It has also been reported that the sports industry contributes to world trade by generating a total revenue of 3% alone. While arguing in favour of the Bill, Tharoor emphasised that sports betting is an enormous market and that its legalisation would aid the government to generate revenue in millions as well. Additionally, he stated that the government could monitor the activities of individuals involved in sports betting, thereby fracturing the monopoly of the underworld mafias who copiously participate in match-fixing.

In 2013, the Federation of Indian Chambers of Commerce and Industry (FICCI, 2012) released a report by the name of '*Regulating Sports Betting in India*', highlighting the approximately INR 3,00,000 crore underground betting market in India. According to the report, the regulation of sports betting is quintessential to the society as it would provide accountability for huge amounts of money that would otherwise be transferred via illegal channels like money laundering and illegal trade, leading to a reduction in the national revenue and act as a mitigating factor for crimes like money laundering and match-fixing. (FICCI, 2012) The Bill also sheds light on the other advantages of legalising sports betting, like protecting those involved in the sport, including players and coaches from unprincipled approaches and employment generation.

6. CRYPTO CASINOS – A NEW PLATFORM FOR BETTING AND GAMBLING IN THE ERA OF BLOCKCHAIN TECHNOLOGY

Blockchain betting and gambling are innovative platforms that allow players to bet and gamble virtually. (Gainsbury, 2017) These "crypto casinos" offer various services like online sports betting, virtual slots, and poker. (Brown, 2022) Blockchain technology enables the use of smart contracts for transparent and autonomous gaming experiences. (Altaner, 2018) Platforms like Quanta and Betswap use Ethereum blockchain to create fair lotteries and peer-to-peer betting markets. (Betswap, 2023) Additionally, blockchain-based cryptocurrencies are utilized for gaming payments, with platforms like Cozy Games and Bitstarz accepting cryptocurrencies alongside traditional currencies. These advancements offer greater security, transparency, and flexibility in the betting and gambling industry. (Hajdarbegovic, 2014)

India's stance on cryptocurrency regulation is very unclear and unsettled. The journey of the legal framework on cryptocurrencies did not embark with a legislation but a mere circular issued by the RBI in 2018 prohibiting the banks not to provide any services to those involved in the trading or facilitating the trading of virtual currencies. This adversely affected the virtual currency exchanges

and crypto traders. (Sinha, 2018) Later, the Supreme Court in 2020 set aside the circular on ground of proportionality and held that virtual currencies exchanges have not caused harm to any of the banks regulated by RBI. (Internet and Mobile Association of India v. Reserve Bank of India, 2020). In the year 2022, the Union Budget announced imposition of 30% flat tax on long term capital gains from digital assets including cryptocurrencies. (The Finance Bill, 2022).

Lastly, in August 2022, the RBI published a concept note on central bank digital currency (CBDC) referred as e₹ (digital Rupee), which will be launched gradually, starting with wholesale firms in the fiscal year 2022–2023. The India CBDC is simultaneously being built for both retail and wholesale applications. (Ozili, 2022) Considering the developments so far, it can be concluded that all virtual currency are not considered a legal tender in India. They are not considered a currency but rather a property for the purposes of tax collection. However, India wants to discourage everyone to use virtual currencies except its own digital rupee which is in the making. Although, none of the developments so far have discussed about betting or gambling through virtual currencies specifically but the 2022 Finance Bill implies that any profits arising from the winnings of betting or gambling in the form of cryptocurrencies will also be subject to 30% flat tax with no option of setting off such profits with the losses. Furthermore, Nagaland and Meghalaya have recognized virtual currency in the definition of ‘wagering’ or ‘betting’ under section 2(5) of The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016 and section 2(ff) of Meghalaya Regulation of Gaming Act, 2021 respectively bringing cryptocurrencies earned from gambling and blockchain based gambling under their purview indirectly.

In theory, several nations, such as Great Britain, Estonia, Spain and Isle of Man, currently permit the use of cryptocurrencies as a form of payment for regulated online gambling. (Hörnle, 2018) While some nations directly oversee casinos that deal in virtual currencies, such as the Canada, and New Zealand. The United States, on the other hand, has a convoluted legal framework that raises several problems. (Cormack, 2018) In 2006, Congress approved the Illegal Internet Gambling Enforcement Act in an effort to solve the problem. (Unlawful Internet Gambling Enforcement Act, 2006) Although this law did not directly outlaw crypto casinos, it did make it more difficult for financial institutions to handle transactions involving cryptocurrency from online platforms to US customers. Apart from this, there has been no legislation anywhere in US that specifically addresses gambling with cryptocurrencies. However, some states like Nevada, Delaware, Pennsylvania and New Jersey permit crypto casinos for their residents only. (Brown, 2022)

7. RECOMMENDATIONS & CONCLUSION:

7.1. Recommendation

Even though gambling was declared illegal, it did not affect the prevalence of the act as regulatory authorities sniffed out gambling stations, the players went more and more underground. Players

started gambling in unregulated gambling houses with their unregistered black money. Gambling and its black money existed peacefully out of the scope of the government's circulated gross income. Incomes from gambling activities led to the eventual increase in black money. The increasing black money in the hands of people generated exuberant demands and created crime syndicates. The crime syndicates profited out of eager gamblers, illegal transport, corruption, and trends in virtual currencies (Vishwajith, 2010).

In India, the state government of Goa has since made amendments to the act to make gambling and betting legal in Goa. Goa boasts over 15 casinos open for all its tourists, Indian or foreign, to gamble in; the state, a coastal locality, also has offshore cruise casinos hosting right by its territorial limits. As Goa is a small and predominantly rural state, revenue from casinos contributes extensively to its state income. The state collected over 400 crores in revenue from casinos in the fiscal year 2018-19; the Indian government forfeits at least 19,000 crores from illegal betting activities. India's large and eager adult population attracts dozens of offshore companies interested in investing in regulated betting houses and casinos in India. The legalisation of gambling would not only enable economic proliferation but would also be an opportunity to scope out much of the social stigma and ignominy attached to it by enlightening the general population on the risks and skills undertaken in performing betting. In a general scene, it is reasonable to infer those illegal transactions only lead to the larger circulation of black money. In contrast, white-collar trade can lead to great economic prosperity (Mudgal, 2016).

Many would argue that the argument on 'revenue over morality lacks merit'; however, keeping a moral perspective at hand, the criminalisation of betting has not been able to curb the activity but has rather made its clandestine nature lure many buccaneers into the underground world (Lodha, 2018). But if gambling were to be legalised and brought into the orbit of the economy, the government could use its ability and capacity to educate the public on the meaning and range of gambling; the activity could be adopted as a respectful game of skill and chance. The gambling markets would be regulated and would function under the purview of the Reserve Bank of India. Regulations nurturing a decriminalised game of gambling would eradicate malpractice and illegal corruption (Shah, 2021). The public interest would be maintained by setting a bar on the total amount which can be invested in betting so that excessive monetary damage can be avoided; the NGOs and community centres could host support groups to help people overcome gambling addiction.

The need to regulate betting and gambling isn't only seen in the 21st century. Many rulers before use saw the prevalence of betting in their region. The Katyayana Smriti even calls on the king to impose a tax on gambling and regulate it. In Kautilya's Arthashastra, the kingmaker Chanakya himself directed an honest and impartial game of gambling where a severe penalty was afforded for violation of gambling regulations. The Lodha committee has also understood such

requirements to be imminent in this day and time. Here, the proposal and analysis is an effective way to regulate gambling.

Similarly, countries like Japan and the United Kingdom have also regulated gambling activities. India must also adopt a modern protocol for licensed gambling, taking inspiration from our predecessors. Licensed operators should offer to gamble and betting services only; these operators must focus on skill-centric games and conduct fair practice. Interested betters and gamblers must register themselves before a registered operator, whose record must be kept by a concerned government authority. Before participating in gambling and betting activities, players must fulfill certain preconditions, fill out a declaration of free will, and undertake all the risks involved. The licensed operator must take note of the client's proper details, including name, address, age, bank account details, PAN, etc. Now that most transactions are turning online, and people use online payment options on a regular basis, gambling has also taken a turn online. Media communication and online platforms are covered under Entry 31 of List 1 of the seventh schedule of the Indian Constitution, and general gambling regulations are covered under the state list; the government must enact a new law that supersedes all the existing contradictory statutory regulations and legislate it under Article 252 of the constitution for adoption by all consenting states.

Once a unanimous law is created for gambling and betting, online regulations and verifications will be more systematic. Like in an online trading platform, an online betting platform should have extensive verification and precautionary tests. There must be a photo verification of the player, along with income proof, Bank proof, address proof. The player must be allowed to deal in transactions only through their valid bank accounts, wherein their Aadhar is linked to their mobile number, in order to undertake a successful KYC verification. Online betting platforms should be made to choose and filter eligible participants based on their minimum annual income of the last five years and there should be a cap on maximum limit of money deposits on a monthly basis. People below the poverty line, under the age of 18 years, and people who benefit from the government's social and economic welfare schemes should not be allowed to game.

No graphic or misleading advertising should be undertaken by betting operators, and the participants must be regularly made aware of the risk involved in the game. Any income obtained from transactions undertaken on betting platforms should be taxable at a reasonable interest rate. The licensed operators should also take reasonable conveyance fees from the players as per government norms. Thus, even though gambling, by definition, is not a game in the public interest, regulating gambling in this country shall be deemed as one in the interest of the public.

Along with introducing the necessary laws, complementary laws should also be amended in accordance with the developments in the field. The Foreign Exchange Management Act, 1999 and the Rules and the Foreign Direct Investment (FDI) Policy should be amended to encourage investments in the regulated betting networks, casinos, and online gaming industry. The

Information Technology (Intermediary Guidelines) Rules, 2011 and the National Sports Development Code of India, 2011, which bar all gambling and betting activities, should also be amended along with any statutory provisions.

Betting activities, once regulated, will be able to run in a systematic and respectful manner. Before introducing a liberal stance on gambling activities, thorough research must be conducted on the effectiveness and security of the activity model; moreover, an organic approach should be undertaken to very high-risk and innocent classes of the society, such as adolescents and people with comorbid mental disorders or other addictions from getting involved in betting. Central betting houses and their state divisionary and private institutions should function in accordance with the guidelines laid down by an autonomous governing body. This structure will help boost employment and attract tourists and foreign direct investment. The security measures would prevent any inconvenience of law and protect the vulnerable classes of society. (George, 2021)

As betting continues to attract an overreaching majority of people online. The transactions have been enamoured into a new world of virtual currencies. Virtual currencies would potentially draw the interest of many investors in the era of digitisation. Cryptocurrencies run on a blockchain method; here, transactions are tracked through a globally distributed public ledger. These individual blockchain stores identify transactions that can be the value of anything (Butler, 2022). The cryptocurrencies include currencies like Bitcoin, which are only a representation of value, or platforms like Ethereum, which are a general-purpose blockchain that allows applications to be made on top of it. The threat to the regulation of gambling is when the transactions are made with cryptocurrencies or when gambling events are hosted on Ethereum platforms, the government cannot regulate it. Cryptocurrencies are yet to be recognised as a legitimate form of currency exchange. However, India has shown signs of accepting the new bull of digital currencies; with the budget of the fiscal year, 2022-2023 prompting the issuance of India's own cryptocurrency based on blockchain and SEBI's regulation of digital gold shows promising signs of destigmatising the digital market and thus bringing more acceptance to the platforms connected with it. (Budget, 2023)

Gambling is a large economic booster witnessed in Las Vegas, Goa, and Monaco examples. Yet, India is so resistant to the prospect of legalising betting and gambling; a constitutional problem against the legalisation of gambling is that it is against the doctrine of Public Policy. The common law doctrine of public policy intervenes when an act is dangerous to the public or against the greater good of society. It is largely affirmed that any act against the public is immoral. In other words, an act that deprives a person of his rightful use of money is immoral.

We live in a society where gambling is considered a vice, and a gambler is considered a liability to society. The view has been drawn with references to addiction, corruption, and bankruptcy stemming from the deprivation of money after losing in a game of chance. (George, 2017)

In order to prevent offshore online gambling, the first and the foremost action is to introduce regulated betting and gambling in India by allowing only licensed online betting and gambling operators to set up in India. Secondly, since online gambling sites are said to be big, dependable, and obvious businesses that are simple to recognize in the digital world. (Goldsmith, 1998) It seems appropriate in these situations to utilise ISPs as an instrument to restrict online gambling. Even while the ISPs that host the offshore gambling website are outside the jurisdiction of Indian courts, the ISPs that offer access to gambling websites are within their purview, making it more logical to hold the destination ISPs accountable. Lastly, financial blocking has to be enforced against unlicensed and offshore gambling operators whereby all financial institutions, payment service providers and cryptocurrency exchanges would be ordered to refrain from providing any services to offshore gambling operators. (Steinmetz, 2019) Hence, without the services of local bank accounts, cryptocurrency exchange and payment service providers, online gamblers will have to use alternative methods such as bank drafts, checks, wire transfers, and the like to collect deposits, place bets, and pay out winnings which makes wagering with offshore gambling operators a logistically challenging task (Vishwajith, 2010)

7.2 Conclusion

In an ever-changing world, laws need to change with time. While India is on the pedestal to newer technological innovations, faster socio-economic advancements, and larger political interventions, it will see a tremulous hankering for easier earning opportunities; the underground betting market will be fed with crime and money in a continuous absence of proper regulation. There is inadequacy of the Public Gambling Act, 1867, which remains the central act that regulates gambling across India, as it was formulated by the British in 1867 and has remained unchanged since then. The states are empowered to regulate gambling and betting activities under the Constitution of India, and only a few states have introduced specific legislation related to gambling. The criminalization of gambling has not stopped the practice but has rather driven it underground, leading to the growth of black money and crime syndicates. Places like Goa, which has legalized gambling and betting, generates significant revenue from the activity.

Online gambling is the preferred path of gambling and betting on different instruments, but the law has no clarity on the regulations and directions of online gambling. There is an urgent need to curb unregulated online national and offshore gambling. The blockchain technology has the potential to transform the gambling industry by providing increased transparency, security, and efficiency whereby the implementation of smart contracts and decentralised applications can provide more autonomous and manipulation-proof gaming. The use of cryptocurrencies as a method of payment can also provide more anonymity and convenience for users. However, the regulatory landscape for blockchain-based gambling and betting is still unclear in many jurisdictions, and the use of virtual currencies is often subject to tax laws. Despite this, several

countries have already begun to regulate and embrace the use of cryptocurrencies in the gambling industry, and more may follow suit in the coming years.

In conclusion, the need for a comprehensive legal framework that regulates gambling and betting activities in India is evident. Archaic laws and lack of proper regulation have led to delayed justice, growth of black-market crimes, and the loss of potential revenue for the country. With the emergence of blockchain-based platforms and the acceptance of cryptocurrencies as a method of payment, the need for a modern protocol for licensed gambling and betting is more pressing than ever. The paper recommends that India should follow the examples of other countries like US and UK and adopt a law that supersedes all existing contradictory statutory regulations. The law should focus on skill-centric games, fair practices, and ensure that interested bettors and gamblers register themselves before a licensed operator, whose record must be verified and kept by a concerned government authority. With a cohesive law that complies with the advancements of the real world and is a token of liberal faith in aid of public policy, the chain of black-market crimes can be ended by unearthing the channel of income and streamlining it into the domestic income of the country. This will not only help limit the addiction and besmirch of the betting syndicate but also help the nation prosper and abet impede criminal incarcerations.

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