

LEGALISATION OF BETTING IN INDIA

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ABSTRACT

The underlining objective of my research paper is to understand and analyse the concept of betting in India. Betting in India can be a money spinner for our country which will contribute to the development of our country. There was a committee set up which came up with a law commission report with certain laws regarding the betting and gambling laws and this paper focused on how it is useful for India. Also like the UK, India can be benefitted from this in ways like providing employment opportunities, tax revenue and so on. This paper also focuses on the role of the state in betting and what further can be changed in the law commission report has been briefly explained in my paper.

INTRODUCTION

Betting term in India has always been criticized by people not only in the present but in the past also there are shreds of evidence in the Indian mythology that depict the theory behind betting. But looking at the present scenario and its craze all over the country it has somehow brought the idea of making it legal all over India. 'Sports betting' is the term which the youth, as well as sports enthusiast, want from this country lawmakers. Looking from the country development perspective it can be a money spinner which in the future can lead to the development of this country.

Talking about sports in India cricket is considered as most popular sports in India and the game has a great history when it comes to a country like India as compare to other sports. But as people say that good things come with greater risk so, is the case with cricket in India. In the past, there had been instances when cricket was brought under the umbrella of match-fixing. Due to this law commission of India recommended the legalization of sports betting in India with established rules and regulations.

On Gambling and sports betting law panel suggested that incapability to enforce a complete ban has resulted in a rampant increase in illegal gambling which has resulted in excessive generation and circulation of black money. Since the state was incapable of keeping an eye on these activities the law penal came up with the idea of legalizing betting in India.

It has been stated that legalizing betting in India will add around 4 trillion dollars into the Indian market. Another reason behind legalizing of betting was the shortage of funds in sports as every time state govt. was having excessive funds for the welfare activities but when we talk about sports state has always said the shortage of funds to develop the sports infrastructure and betting can work as money booster for the state as well as for the sports.

The parliament can adopt this model for regulating gambling which can further be adopted by the state government. Gambling comes under the state list to legislate under the provisions of

the constitution. To ensure transparency and public safety govt. has to make certain rules to regulate in a democratic country like India.

LAW COMMISSION REPORT ON BETTING

On 5th of July law commission of India in its 276 reports gave its verdict by saying that betting should be legalised in India and government of India should regulate it. The report was given with the majority headed by Justice BS Chauhan. The law commission made certain recommendations regarding the betting and gambling laws in a country like India where sports or we can say cricket is treated as another way of family gathering.

The main reason they gave was it is impossible to curb illegal betting in India. They said by putting a complete ban on gambling activities there has been a hike in black money generation and circulation. The report says that law commission took opinion from a student, experts, and the general public. They gave certain benefits as well as its ill effects. Their main focus was on criminalizing spot-fixing according to the commission drawbacks that were raised was all about the spot-fixing whether that can be controlled or not etc. And due to this commission gave the idea of criminalizing spot-fixing in order to regulate the betting in India. As it will be impossible to keep a check on each and every person they said that betting should be cashless so, govt. will be having an upper hand in regulating the betting. Through this, the total transaction, as well as the amount limit, can be fixed and the person with below poverty line won't be allowed to bet due to the financial crisis.

BENEFITS OF SPORTS BETTING

➤ Tax revenue for the government

Another benefit they gave was of generating of tax revenue according to various media reports it came into the picture that almost around every better bet online which leads to the flow of

money in outside countries and nowhere there is mention of online betting is illegal in India. The govt. don't have any laws to protect still the betting is going on in order to formalise commission recommended the legalisation of betting which will bring a large chunk of money in the govt. funds which can be used for public welfare as well for sports development where there is still a lot of scope in terms of sports infrastructure. This statement can be inferred from the fact that according to one of the reports of FICCI size of betting market in India is around 3 trillion and by going with that no. Govt. somewhere losing 12000 to 20000 CRORE of tax revenue by not taxing betting in India not only that countries, where betting is banned, will also invest money in Indian betting market which will lead to the overall growth in the GDP of this country and that money can be used for the economy as well as sports development in this country. These were the economic benefits.

➤ **Misuse of the money**

The amount of money that is generating through illegal betting can be misused, if not soon then the amount of money that goes out can be lethal. It is very much under everybody notice that most of the illegal betting agencies work under the underworld and it can be dangerous for the govt. all over the globe as there is a huge amount of money involved which can lead to the funding of terrorism and anti-social activities.

This is because in a country like India where most of the betting happens in cash or we can say that the whole infrastructure of betting is based on cash. So to overcome the illegal market govt. has to ban illegal betting and instead of that has to set up certain govt. operators all over India as betting operators. It is necessary to set up these operators as said earlier most of the betting takes place in cash. So, to stop the funding for the underworld govt. has to take certain steps

➤ **Employment opportunities**

India as a country has an example of Sikkim and goa that has use gambling as a source of generating employment opportunities for the people. It's an untapped source of employment

as it's an industry currently thriving only in the underground. If legalized, betting can create a large number of legal jobs more than 8000 people are employed in casinos in Goa. This has generated employment within the state for social improvement for the overall population. As per the FICCI report if betting gets legal all over the country it will create more than 2 lakh jobs within the country through offline and online betting. Talking about different countries so as per the report U.K generates more than 10000 jobs every year.

➤ **Reduce in match-fixing**

The conventional wisdom is that if a certain activity is banned be it betting or gambling it provides an illegal way to induce it and that leads to match-fixing and corruption. But if apply the reverse case then incentives of getting things illegally gets vanishes. But will it work in sports there are many countries where after legalising there are cases of match-fixing?

Legalising sports betting might not completely solve the problem of fixing. But that might make it easy to track, investigate, catch the as battings patterns can be monitored. Not only will this, it will restrict the amount of money and opportunities available with fixers to tilt the odds in their favor be out of the league. Thus, it will be more of a monitoring business transaction like SEBI monitoring share market.

Under-regulated betting, the bookmakers will be required to keep proper records of the transactions they are involved and know the identity of those who are betting which will be the key to ensure that sports fraud. In fact, license holders will themselves ensure and create systems where sports fraud would be very difficult as their licenses can be revoked, or goodwill is affected if they are found flouting the rules. That process is possible only after legalizing and regulating betting. Once it will be legalized people will prefer to bet online on fair channels rather than other unregulated market and the chances of fixing will reduce drastically.

➤ Betting in other countries

If we take an example of UK it serves as the best example as of how betting is beneficial if legalized and regulated properly. In UK betting got legalized in the year 2005 from then it has contributed massively in the overall development. There are somewhere around 10000 betting shops, those shops bookies have to get themselves registered with gambling commission. A body that sets the rules for betting. Not only that they are also required to report unusual settlement to the commission which can fine and revokes licenses and prosecute illegal gamblers. According to media reports the betting industry has reported to contribute 60 billion pounds which is 5 percent of their G.D.P. Not only that talking about employment opportunities they are employing more than 100000 people on a yearly basis.

As per the FICCI report countries like the UK the funds from sports betting is used for funding of elite sports, training, and exposure of athletes. Besides, funds from lottery have played important role in funding sports development in China, UK, and South Africa etc. Now the question is whether sports betting can also be regulated in India and funds from sports betting and lottery could also support the development and funding of sports like many other countries. India can follow the procedure of sports betting keeping craze in mind and certainly can support the development of sports infrastructure. As everybody knows that sports infrastructure plays a crucial role in achieving excellence in the sports arena that will not only help in producing sportsman of international repute but also will encourage the young generation to participate more and more in sports with the only objective of creating sports culture in the country.

Talking about the present day, despite the success of athletes has created a prominent position for India. In cricket, India has already emerged as superpower due to its excellence in world cricket. But these resources are not good enough. Despite all this success it is important to mention that the sports infrastructure in India still has to reach the desired level. There are cases when initiatives were taken but that wasn't enough to create sports opportunities by building sports infrastructure.

There are cases when it clearly came out in public that India as a country still lacks in funds. A Country where federation invests only 85 rupees on a daily basis which shows the lack of funds.

The success of Great Britain is an example a country finishing second in Rio games considering the fact that they won only one gold in the 1996 Olympics. The change came up when Britain invested the lottery funding amount into the sports. After that everything is history. For every big sport, Great Britain received a great amount of funding to develop the sports infrastructure with the objective of creating a culture of sports. In the year 2013, for Atlanta games, total funding was 5 million dollars (2437 crore) with specific targets to achieve in 20 sports. In the same time period Indian govt. funded only 700 crore which was not only less but also distributed in 67 national sports and federation etc. so, the outcome has to be better in sports and that can clearly be achieved through sports betting. As per FICCI report by legalizing betting India can be generated approx 12000 to 20000 crore. So, if India invests half of the amount it can lead to great achievement in the future.

➤ **Separate opinion given in law commission report**

Law Commission report gave its verdict by majority the only opinion which differs was of Dr. S. Sivakumar he was of the view that legalizing betting socio-economic and cultural circumstances are not pragmatic to accept the legalization of betting as it is still treated as a social stigma. He also viewed that it will push the innocents into the poverty and penury. On this point where he has talked about the socio-economic and cultural circumstances wasn't he aware of the fact that after being illegal there is almost 3 trillion rupees transaction takes place through the online transaction and in states like Goa where govt. earns more than 120 crores every year through gambling only these parameters never prove the ill effects of betting in India.

Many of them said that it will give a man a chance to earn a disproportionate amount in a short time without labor which will lure away the man from honest day's work. So the question that comes is what about the people who invest in share does it not come under the profession where

the amount is earned without any hard labor and according to the sources it is working brilliantly as it also requires certain set of skills in the same way person having knowledge or skills will bet rather than person who don't have any kind of idea on it.

So the main point that arises is whether or not govt. legalize betting or not betting will be prevalent within the society. Legal forms have betting has beneficial effects in local as well as in the national economy. It is popular among the people and can properly be regulated as illegal means of betting will only bring more sinister forms of criminality and that will damage the economy of this country.

➤ **State role in betting**

Most countries that have legalized betting has betting commissions created by the state as it is the state which will be responsible for distributing licenses to the betting operators. Only in cases where there is a dispute where breach involves more than one jurisdiction. The state has to take steps in order to dispense information to the public about betting by a listing of events on which bets can be placed. National regulators can have state-level chapters.

➤ **The Existence of fantasy leagues**

Two years ago in case of Varun Gumber vs. UT of Chandigarh and ORS. When Varun approached the court claiming that he had been a victim of illegal gambling on fantasy leaguedream11. Denying the allegations the company contested claiming that they are registered under the ministry of commerce and being assessed by the income tax department regularly.

Under this high court stated that things like horse riding where the bet takes place on the winning and losing. In its judgment, the court said gambling does not come under trade and thus not comes under the article 19(1)g of the Indian constitution which gives a right to every individual to profess in any kind of business which is legal. Thus in its verdict court said that the company does not come under the category of gambling as it requires certain skills as well

they are registered under income tax as well as service tax. So their rights are protected under article 19(1)(g) of Indian constitution.

There is a misconception in the minds of the people that leagues like dream 11 etc are successfully running within the country. The basic difference between fantasy league and gambling is a fantasy league can be free of cost whereas gambling requires some amount. The other difference is skills leagues do require certain kinds of skills whereas gambling depends on luck. So there is a big difference and leagues like this are registered under ministry of commerce but can leagues like this have brought down the ground level betting but somewhere talking about the reality it hasn't curb the ground level illegal betting. Certain things which require to curb illegal betting is flow of cash as mentioned earlier in India most of the betting takes place in cash and the whole chain of betting takes place on day to day transactions whereas in leagues everything takes place through bank or online payment and payments are made through RTGS or NEFT which takes around 7 days to get clear. So, going through this idea it's hard to curb the illegal betting rather it will instigate youth to go and bet illegally.

➤ **The road ahead**

Despite ongoing attempts to enforce prohibitions against sports betting and a number of arrests of those concerned, there is still a great amount of money being bet on sports in India. Some estimates put the total turnover of the betting market at Rs. 300,000 Crores (\$60bn). Due to the perceived illegality of sports betting, a large sum of money flows untaxed to unlicensed offshore Internet sites or to illegal bookmakers, many of whom are allied with organized crime. This presents a strong case to regulate it as sport betting in the eyes of a large number of people is an inevitable activity and is a mere form of entertainment. The greatest advantage of regulating sports betting is going to be the accountability for the large amounts of money transferred through illegal channels and reduction in cases of match fixing, money laundering, and crimes, creating knowledge and education about ill effects in a focused manner are inbuilt conditions to save vulnerable groups. Besides, it could potentially fund sports development, education, social protection or welfare schemes and infrastructure development plan besides employment generation. A number of countries have legalized gambling in a productive and

safe way and there are a number of legal models - such as Britain's - the Indian government could successfully adopt. Other than that regular monitoring has to be done in order to prevent the illegal market the betting cannot work on the cashless transaction so govt. has to issue licenses to the local people with proper documentation in order to keep a check whether they are following the govt. set of rules or not. There has to be certain restriction that has to be imposed in the case of legalizing betting in India in cases of minors the licenses will be under the obligation not to bet with minors this will be done through checking of the documents and ensuring that premises that are permitted for gambling are physically separated from areas available to children.

Another thing is the addition of looking across the statistics from different countries we can find that there are people who are unable to control their betting behavior. So, for that govt. has to take certain steps related to it by ensuring the monthly limit till which a person can place a bet as per the income of the person. A mandatory process of self-exclusion has to be implemented so that a person who doesn't want to gamble online or offline his or her bets will no longer be accepted.

CONCLUSION

“As the society changes, the law cannot remain immutable”

Many people have strong feelings about betting these views originate from religious or moral or relating to the amount of money they have. But we also believe people having different views are perfectly legitimate regarding the sports betting. Some feels that it can lead to the disaster, some feels that it is an unskilled way of earning and what not and we do believe in their viewpoint by keeping this thing in mind keep it neutral somewhere in between entertainment and business as our constitution gives that freedom to choose and everybody has that right to bet or not to bet and in case if govt. legalize betting they also have to make sure that there exists a framework designed to protect the young and vulnerable through law and order .

Though in cases when betting gets legalized there are many things that has to be amended and new provisions has to include in order to maintain the law and order. Govt. has to make betting legalized online as well as offline as in a majority of India most of the people prefers betting offline so in case if govt. keeps it only online then it might backfire as people will then also will bet offline through illegal bookmakers as by setting these local vendors they can ask for the proper documents like aadhar card, pan card, and can ask for the payment in account only and person without proper documentation especially pan card will not be allowed to bet. In order to implement this out govt. has to distribute the licenses based on the population of that area and that vendor has to work under the government set of rules by keeping another thing is parliament has to enact a model that can be adopted by the states under the legislation of article 252. States other than consenting states will be free to adopt the same. By legalizing a commission has to be set up in every state in order to maintain law and order and the laws related to match-fixing and sports fraud specifically should be made a criminal offense with severe punishment. In order to make it easier for the public to an axis and it won't lead to addition the states have to set the cap on the no. of transactions a person can indulge in a month or in a match. Betting has to be a divide in certain groups high betting and low betting groups in order to divide them based on their income. Other than that certain section has to be protected from the ill effects particularly the minor people and people below poverty line this category has to protected by debarring them from participating online or offline and person who does not fall under the purview of income tax will be debarred from betting online or offline.

Information regarding the risk involved in betting and how to play responsibly must be displayed prominently on all betting platforms in cases of offline betting also the person has to read the instructions before indulging into the betting. The money derived from such activity has to be included in the income tax act 1961, goods and service act 2017 and all other relevant laws.

In order to keep a check an agreement will be undertaken between bookmaker and bettor under which if the consideration is not lawful or it if is against public morality that agreement will become void under section 23 of Indian contract act 1872 and after that bettor has the right to

sue the bookmaker in case if he feels the bookmaker has done some kind of fraud and is working out of the ambit of laws set by the state.

The most important thing is a protection of players and professional from the illegal bookmakers by making certain strict rules for the players if in case any of them indulges in any illegal activity that particular person will be charged under criminal act punishable with more than 7 years of jail.

Maintenance of the accounts audits etc has to be regular in order to find out the default in the transactions and establishment of the council to look into the matter and prevent some category of people indulging in betting must be put in place.

Thus would like to conclude by saying that betting is not all about losing time and money there is something more than that and it's about luck and luck comes only when opportunity meets preparation and when you have both what good bettors do is quit when you know that you are ahead.