

ALL ABOUT GAMBLING AND SHOULD IT BE LEGALIZED

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INTRODUCTION

Gambling in recent years has become a huge market in India. Some may say that gambling is morally wrong while others may classify it as a criminal activity. For once we can't tend to exactly pen down our points as to why is it we feel so about gambling. But how is this contentious game hugely prevalent in India and has existed since the British Rule. The Public Gambling Act, 1867 is a central law which clearly declared all gambling betting acts illegal, still in the present times it has a far-reaching black market with millions of cash involved which cannot be controlled by the government. Why is it so? Is gambling so addictive that people just can't keep away from it? Could gambling be legalized to the country's economic benefit? Is gambling really immoral? In this paper we will delve deep into addressing some unanswered questions and thoughts in our minds.

Earlier Gambling was widely accepted as a legitimate form of a recreation but now people have turned it into a mode of earning money. While gambling is seen as an innate human nature, it still is a subjective topic and the general social sentiment towards it has been ever swinging with time. Despite the existing prohibitory laws, there is extensive underground gambling taking place throughout India and is generally are heard of by everyone including the government. Its market has a huge potential in our country and currently the Indian Gambling Market is estimated to be worth \$60 billion USD per year. Gambling includes Casino Gambling, Online Gambling, Skill Games and Sports Betting.

Followed since the British rule, the archaic Indian law for gambling is still prevailing and is unchanged. The Public Gambling Act, 1867 is a law laid by the Centre which clearly stated

that all gambling betting acts are illegal except the games where skill is needed. Suffice it to say that the Indian laws have not kept pace with the modern times, the Public Gambling Act of 1867 remains to this day the only law that regulates gambling across India. Although this act was passed by the Centre which makes it applicable across whole of India, betting and gambling comes under the state list. The Seventh Schedule Entry 34 List II of the Indian constitution gives all the states the power to decide the laws regarding gambling. The state governments within their authority have the option to either adopt the Central Act or to device any amendments which may seem the best fit for their region. Hence many state authorities have done just that. Government-run lotteries are sanctioned in 13 states and in 5 Union territories while horse racing is legal in 6 states, and casinos are legal in just 2 states (Goa and Sikkim). In 2010, Sikkim became the only state to legalize Online Sports Betting.

UNDERSTANDING THE CONCEPT

Gambling is participating in an activity involving wagering something materialistic or of monetary value to win something similar, money or a prize. Thus gambling by and large has three elements 'Consideration', 'Risk' and 'Prize'. The Public Gambling Act, 1867, prohibits running or being in charge of a public gambling house and provides that games of mere skill are exempt from the application of the Act. Additionally, this Act prohibits visiting gambling houses. Gambling is not considered an offence until and unless it takes place in a public place or a common gaming house. Simply the occasional convening of mates and acquaintances to play cards and perhaps for money does not make it a common gaming house.

The three landmark cases which set the legal precedents and defined gambling in India are:

- *RMD Chamarbaugwala vs. Union of India case, 1957*

The upshot of the case hearing was that the Supreme Court clearly drew a line between games of skill and games of chance and held that games involving certain skill level wouldn't be considered gambling. The Court also gave the definition of skill games as, "The competitions where success depends on a substantial degree of skill are not 'gambling' and despite there being an element of chance if a game is preponderantly a game of skill it would nevertheless

be a game of mere skill"; Thus, the games of skills were exempted from the ambit of gambling and are not prohibited.

- ***Dr K.R. Lakshmanan vs. State of Tamil Nadu, 1996***

The reason betting on horse racing is not prohibited while other types of gambling are illegal was answered in this case, where the Supreme Court recognised that Horse Racing was a game based on skill and did not come under the purview of gambling. The three-judge bench further held that the winning of a horse does not completely depend upon chance, but is determined by several other factors such as –adequate training received by the horse as well as his rider (a jockey), pedigree given to the horse, nature of the race, the health of the horse etc. Therefore, removing the question of illegitimacy from it and clarifying the legal position of Horse Racing.

- ***State of Andhra Pradesh vs. K. Satyanarayana, 1967***

The verdict of this case involved the Supreme Court distinguishing rummy from the other ‘three cards’ games and recognising rummy as a game of skill rather than being a game based on pure chance irrespective of the format, venue and stakes involved. Some state enactments on betting and gambling exists where it rules over the Public Gambling Act of 1867. In such manner, the Assam Game and Betting Act, 1970 and Orissa (Prevention of) Gambling Act, 1955 and Telangana State Gaming (Amendment) Ordinance and High Court Judgment in Gujarat, 2017 denies games with cash stakes and furthermore doesn’t make an exception for rounds of ability and karma. In this way, at present, inhabitants of Assam, Gujarat, Nagaland, Odisha, Sikkim, and Telangana are not permitted to play.

IS GAMBLING IMMORAL?

Gambling as a game was initially started being played by the masses as it enticed them with the elements of randomness and chance and had the perfect ingredients to be regarded as a form of entertainment. But unsurprisingly enough the game involved the behemoth of a foe known to man- greed. (the element of greed). Naysayers see gambling as a bridge to the path of crime while proponents argue that gambling ‘here and there’ for entertainment is not

immoral, but gambling as a habit is where it gets fractious regardless of the amount of money. Gambling as a habit is as vice as it gets, and is detrimental. People who gamble on occasional levels can also get caught up in it. The paramount reason for it to be frowned upon is the element of addiction. Gambling addiction is very much serious and real. There are people with everything to lose get so hooked onto it that they keep going on until they drain their pockets leaving themselves and their families on the path. The dire effects of it on the mind are profound and can lead someone to a state of depression, desolation and helplessness. Looking at it from a philosophical point of view the principle of pining to get something for free without human toil is never considered virtuous. It is also seen as making a quick buck without giving something back to the society. Gambling also affects the moral conscience of a person as he/she is likely to do anything to win or to see somebody else lose.

ARGUMENTS FOR LEGALIZATION

In a country like India where the gambling market has become such a widespread industry, people's inherent love for gambling is seamlessly evident. The involvement of such a large number of populations in this growing industry and the prevalent flouting of this law makes it onerous for the government to limit the involvement in this industry. In 2016, The Supreme Court of India mandated the Law Commission of India (LCI) to deduce the best way to deal with illegal gambling. The LCI, in its report, said – “since it is not possible to prevent these activities completely, effectively regulating them remains the only viable option.” Thus, the LCI has suggested to legalize Sports Betting with strict regulations.

One argument relates to the amount of money involved in gambling. Looking at the annual spending which amounts to billions of US dollars, if this is taxed efficaciously it could make sizeable economic benefits to the government in terms of revenue generation. For example, the legal online gaming industry in India (legal games such as online poker, online rummy, and fantasy sports) has grown significantly with increased digitalization and high internet penetration. A 2017 study suggested that the Indian online gaming industry will be worth USD one billion dollars by 2021. If all areas of gambling were to be legalized like this, it could generate substantial amounts of funds for the central and the state governments.

A second argument suggests that if gambling were to be legalized, it would curb the use of illegal black money, which is being used or laundered to fund terrorism. According to the Law Commission Report No.276, a complete ban on sports betting wouldn't help as it would push the betting towards the black market. The report also stated that the profits earned through such activities escape the purview of taxation which increases the use of black money in the market.

A third argument suggests that legalizing gambling would create potential job/employment opportunities and would attract tourism. As seen in the legally operating casinos in Goa which have brought about immense tourist attention and therefore contributed in financial gains and employment creation.

Another argument in favour of legalizing/regulating gambling cited that the percent of population which is adversely affected by gambling is less than 1 %. For the rest it remains a fun leisure activity with a potential chance to earn money. Why deny the majority a pleasurable pastime just to be wary of some problem gamblers?

ARGUMENTS AGAINST LEGALIZATION

Whenever we think of the negative effects of gambling, things like financial worries, addiction and other serious issues spring to mind. The putative argument which is the first to be put forward is the boundless financial losses which leads to large debts and even bankruptcy. The person involved not only puts himself in a defenceless state but his whole family. This leads to depression and which leads to potential problematic and addictive behaviours. This culminates in increased substance use. The public health argument is that there is a potent relationship between substance consumption and subsequent problems. The more the people indulge into gambling, the greater is the possibility for them to develop problems. Thus, if gambling were to be legalized, inevitably more people would indulge into gambling and more is the likelihood for them to spend their time and energy into it and develop addictive problems subsequently becoming problem gamblers. These developing problems will follow greater gambling-related harms to the individuals, their families and to the society.

Researches from across the world has shown that gambling and its related problems undesirably affects the most vulnerable in the society such as the ethnic minorities, the socially and economically disadvantaged, the elderly and the young minds. Studies also show that the ratio of problem gamblers to the population engaged in it is considerably higher than the high-income countries. Hence if legalized the rates of problem-gambling would significantly increase.

Another argument proposes that a person who bore a financial loss is likely to indulge into criminal activities. Addictive gamblers are in need of money constantly and indulge into criminal activities like fraud and embezzlement to meet their gambling demands. Hence the money gained through these activities only expedites the involvement in gambling. This cycle continues till the opportunity of committing the crime remains and the person doesn't get caught.

GAMBLING → FINANCIAL LOSS → DEPRESSION → CRIME

Another argument says that there is a negative impact in the minds of the players who enjoy success even if it is of the smallest margins. The fun of winning naturally gives rise to the greed for more. Hence it will urge the person to put in more money the next time. Eventually this turn into addiction from which it is very difficult to escape.

THE LEGAL ROUTE FORWARD

From the above read it is evident that the laws in India for gambling are outdated and a new framework to revamp the status quo is called for. The sheer volume of people practicing this illegal activity underground and sticking to their own guns has caused the government to heed to the predicament. To allay this illegal activity seems like an unfeasible task. Here are some steps the government may take to address the situation:

- The government should set the upper limit on the number of stakes/bets across all Common Gaming Houses and venues including online platforms and the government

should restrict the number of transactions which can be done in a specific period of time.

- Proper issuing of licenses should be done with authentic identification of the players which would deny those who are under-aged, those with proven substance-abuse problems and mental illness, those with a history of criminal records, those with lower income levels.
- Statutory regulatory bodies should be set up to monitor and protect the interest of the players also functioning as a grievance redressal machinery.

CONCLUSION

Though the arguments are pretty balanced for both the sides, the government should behold the pros and cons before considering such a huge policy change. Even though there are a lot of steps proposed showing the path to effective legalisation however there are many concerns which still remain unanswered. On the face of it many theories seem apt but there is no guarantee or unequivocal evidence that this is the way through. In the end there is no one argument which edges out the decision in its favour so as more research work is required to deduce a conclusion.

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