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## LEGAL ASPECTS OF BETTING AND GAMBLING IN INDIA

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### ABSTRACT

In many regions of India, gambling activities are still governed by the Public Gambling Act, 1867, a law from the colonial era that is unfit to handle the complexity of contemporary gambling ecosystems, particularly in the digital age. This paper critically analyses the Act's applicability, reach, and limitations considering advancing forms like mobile gaming apps, online betting sites, and fantasy sports. This research draws attention to the distinct regulatory mechanisms used by different Indian states because of gambling's constitutionally permitted concurrent nature and explores how the legality of various contemporary gaming formats has been impacted by the judicial interpretations of important terms like "game of chance" and "game of skill." This study intends to highlight the pressing need for reform and offer practical policy recommendations that strike a balance between individual liberties, public morality, and regulatory control by examining the constitutional, economic, and socio-legal aspects of gambling.

**Keywords:** Gambling, betting, game of skill, game of chance, Laws, legalizing.

### 1. INTRODUCTION

Gambling means “the act of risking something of value for a chance to win a prize”<sup>1</sup> and betting can be defined as an “action of gambling money on the outcome of a race, game, or other unpredictable event”<sup>2</sup>. The Public Gambling Act, 1867, continues to serve as the cornerstone of regulation despite notable advancements in social, technological, and economic spheres. A question arises about the effectiveness of the Act in combating modern forms of gambling such as online platforms and fantasy sports leagues. Irregularities in the legal landscape have resulted from India's scattered regulatory framework, where gambling is governed by the State

<sup>1</sup> “Gambling”, Bryan A. Garner, Black’s Law Dictionary (8th ed.2004).

<sup>2</sup> “Betting”, Oxford English Dictionary.

List<sup>3</sup>. Different states have implemented different laws; some have banned gambling, while others have liberalised it. This research paper critically analyses the Public Gambling Act, 1867, its legislative framework, judicial interpretations, comparative analysis within different states, and the need for a unified legal framework.

### **1.1. OBJECTIVE OF THE STUDY**

This paper relied on primary data from statutes, case laws, and books, as well as secondary data from articles, blogs, websites, and journals. The following objectives are essentially pursued by this paper through doctrinal and comparative legal analysis.

1. To study the current legal framework governing betting and gambling in India, with a focus on constitutional provisions, statutes, and state-specific legislation.
2. To distinguish between skill-based and chance-based games in the context of Indian judicial interpretations.
3. To evaluate the economic and social implications of legalizing betting and gambling.
4. To put forth legal recommendations for a balanced regulatory framework for betting and gambling in India.

### **1.2. SCOPE OF THE STUDY**

This research paper analyses key laws such as the Public Gambling Act, 1867, to investigate the legal aspects of gambling and betting in India. It also examines court rulings that elucidate the difference between games of chance and games of skill and focusses on the difficulties and uncertainties associated with digital and online gambling.

## **2. LEGAL FRAMEWORK GOVERNING BETTING AND GAMBLING IN INDIA**

The legal landscape governing betting and gambling in India is shaped by constitutional provisions, central law, and diverse state regulations. Even though gambling is essentially a state subject under the Indian Constitution, which results in differing legal perspectives throughout the nation, the Public Gambling Act, 1867, remains the primary framework.

### **2.1. CONSTITUTIONAL PROVISIONS**

The Indian Constitution grants state legislatures the sole authority to enact laws pertaining to gambling and betting, as these topics are covered by the state list. Specifically, Entry 34 of List II of the Seventh Schedule of the Indian Constitution addresses "Betting and gambling". While some states, such as Maharashtra, strictly prohibit gambling, others, like Goa and Sikkim, permit it under certain conditions. States can enact laws according to their own social and economic circumstances, which reflects the federal character of Indian governance.

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<sup>3</sup> Law Commission of India, Report No. 276, Legal Framework: Gambling and Sports Betting Including in Cricket in India (2018).

## **2.2. THE PUBLIC GAMBLING ACT, 1867**

A key legislation enacted during British rule, which governs gambling and betting in India. Even though its application is limited, it aims to prohibit public gambling and the operation of common gaming houses. This Act has faced criticism over the years for being outdated and not accommodating the rapid growth of online gaming and betting platforms.

### **2.2.1. KEY PROVISIONS OF THE ACT<sup>4</sup>**

- **Section 3:** Penalizes those who own, keep, or manage a common gaming house with fines and imprisonment.
- **Section 4:** Imposes penalties on persons found in such gaming houses, considering their presence to be presumed proof of gambling.
- **Section 5:** Authorizes police officers to enter, search, and seize materials from suspected gaming houses without a warrant.
- **Section 12:** Exempts "games of skill" from the act's prohibitory reach, creating a significant exception.

### **2.2.2. LIMITATIONS OF ACT<sup>5</sup>**

The Public Gambling Act, 1867, has some significant drawbacks because of its outdated and limited application, such as:

- This Act was enacted almost 150 years ago, failed to address the contemporary gambling market and does not contain any provisions for online gambling, betting apps, or digital gaming platforms.
- No clear distinction is provided between “game of skill” and “game of chance”, which has led to interpretational inconsistencies and legal uncertainty.
- Due to the Constitution's position of gambling and betting as a state subject, several states have either implemented separate laws or amended the Act, creating disparate legal frameworks throughout India.
- There is no framework within the Act for responsible gambling, consumer rights, addiction treatment, protection of minors, licensing, taxation, or supervision of activities, resulting in unregulated or illegal operations.

## **2.3. OVERVIEW OF STATE LEGISLATIONS**

Many states have adopted and amended the Public Gambling Act, 1867, the foundational law enacted during British rule. However, a few states have taken things a step further by passing

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<sup>4</sup> The Public Gambling Act, No. 3 of 1867 (India).

<sup>5</sup> The Public Gambling Act, No. 3 of 1867 (India).

their own gambling regulations that are tailored to their socio-cultural and economic environments.

### **(a) Goa, Daman, and Diu**

Most Indian states have strict gambling laws, but the Goa, Daman and Diu Public Gambling Act, 1976 is an important shift from such laws. The Goa Amendment Act No. 11 of 1992 and No. 13 of 1996 changed the Act in major aspects. These changes let the State Government grant licenses to five-star hotels and offshore vessels to run electronic amusement games and slot machines<sup>6</sup>. Goa is one of the few places in India where casino gambling is legal and commercially operational. While retaining prohibitions against unauthorized gambling like the Public Gambling Act, 1867, the 1976 Act creates an exception for licensed entities and imposes punishments for unlawful gaming activities to ensure a regulatory framework. Through tourism, employment opportunities, and taxes, the law has grown to be a significant contributor to Goa's economy, illustrating a practical and economically driven approach to gambling regulation.<sup>7</sup>

### **(b) Karnataka**

The main piece of law controlling gambling and betting in the State of Karnataka is the Karnataka Police Act, 1963. A few of the Act's provisions deal with gaming establishments and gambling offences<sup>8</sup>, even though it was initially intended to govern public order and police administration. When the Karnataka Legislature amended the Act in 2021 to forbid all types of online gambling and betting, including skill games played for stakes<sup>9</sup>, it was considered a significant legal development. The amendment, however, was widely criticised for its absolute prohibition, which did not differentiate between games of chance and skill.

The legality of the amendment was challenged before the Karnataka High Court, which in February 2022 struck down key provisions of the amendment for being unconstitutional, particularly on the grounds of violating the right to trade and profession under Article 19(1)(g) and 14 of the Constitution<sup>10</sup>. The court made it clear that skill-based games are not the same as gambling and are not included in an outright prohibition. Thus, the Karnataka Police Act still forbids unlicensed gambling, but its attempt to apply the ban to online skill games was squashed by the courts, highlighting the need for a fair and constitutionally sound regulatory framework.

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<sup>6</sup> Goa, Daman and Diu Public Gambling Act, No. 14 of 1976, § 13A (India).

<sup>7</sup> Law commission of India, Report No. 276, Legal Framework: Gambling and Sports Betting Including in Cricket in India, (2018).

<sup>8</sup> Karnataka Police Act, No. 4 of 1964, §78-87 (India).

<sup>9</sup> The Karnataka Police (Amendment) Act, No. 28 of 2021 (India).

<sup>10</sup> All India Gaming Federation v. State of Karnataka, W.P. No.18703/2021.

### **(c) Tamil Nadu**

The Tamil Nadu Gaming Act of 1930 is the primary law governing gaming and gambling in the state of Tamil Nadu. It was passed with the intention of controlling gaming houses and eliminating public gambling. It imposes a prohibitive stance, making it illegal to operate or participate in common gaming houses<sup>11</sup>. Tamil Nadu has attempted through several laws in recent years to broaden its regulatory purview to include online gaming and betting, particularly those with monetary stakes. The Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021 attempted to outlaw all online games for money, including skill-based games like poker and rummy<sup>12</sup>. The Madras High Court, however, declared the amendment unconstitutional, citing a violation of Article 19(1)(g) of the Constitution regarding the right to trade and profession caused by a complete prohibition of skill-based games<sup>13</sup>. The state responded by passing the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, which outlawed online games that involve money once again and established a licensing authority. But the act was called into question as ultra vires. The Madras High Court did not find the Act to be ultra vires, but the schedule of the Act was set aside. The court made it clear that the state could set age restrictions and time limits, but it should not categorise games like rummy and poker as illegal under the scope of "game of chance".

### **(d) Sikkim**

In India, Sikkim has become a progressive place when it comes to regulating gambling and betting. The Sikkim Regulation of Gambling Act, 1999, is the crucial law that controls gambling in the state. The Sikkim Regulation of Gambling (Amendment) Act, 2005, made this law much bigger by adding rules for online gambling and betting. These changes gave the state government the power to grant licenses to operators who operate online games of chance, like lotteries, casino games, and sports betting, if they complied with strict regulations.<sup>14</sup> The Sikkim Online Gaming (Regulation) Act, 2008 was subsequently passed, establishing a more comprehensive legal framework tailored to online gaming and betting on state property.<sup>15</sup> In order to maintain transparency and protect consumers, operators were expected to abide by licensing requirements, safeguards, advertising, and financial disclosures under this regime.<sup>16</sup>

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<sup>11</sup> The Tamil Nadu Gaming Act, No. 3 of 1930 (India).

<sup>12</sup> The Tamil Nadu Gaming and Police Laws (Amendment) Act, No.1 of 2021 (India).

<sup>13</sup> *Junglee Games India Private Limited and Ors v. State of Tamil Nadu*, 2021 SCC OnLine Mad 2762.

<sup>14</sup> Sikkim Regulation of Gambling (Amendment) Act, 2005 (India).

<sup>15</sup> The Sikkim Online Gaming (Regulation) Act, No. 23 of 2008 (India).

<sup>16</sup> EXPLORING GAMING LAWS IN SIKKIM: A COMPREHENSIVE OVERVIEW, Jus Corpus (Jan.11,2024) <https://www.juscorpus.com/exploring-gaming-laws-in-sikkim-a-comprehensive-overview/>

The distinctive feature of Sikkim's model is its regulatory approach as opposed to its prohibitionist one. The state has attempted to increase tourism, generate income, and create jobs by legalising gambling under a structured licensing framework. At the same time, it has attempted to reduce risks through government oversight and compliance procedures.

### **3. GAME OF SKILL VS. GAME OF CHANCE**

A fundamental component of Indian gambling law is the differentiation between "games of skill" and "games of chance." This contrast is crucial to the Public Gambling Act, 1867, which specifically excludes some activities, especially those requiring skill, from its purview, even though it does not define the term "game of skill". With the help of a sequence of significant rulings, this paper examines the judicial interpretation and legal development of this distinction.

#### **3.1. LEGAL AMBIGUITY UNDER THE PUBLIC GAMBLING ACT, 1867**

Although the Public Gambling Act, 1867 does not explicitly define the phrases "game of skill" or "game of chance" but a crucial exception has been provided under the section 12 of the Act:

*"Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played".*

This suggests that gambling in games of chance rather than skill is illegal under the Act. The Act is still outdated and provides no clarification on modern digital games despite these court rulings. Legislative actions in several states that outlawed gambling and betting but allowed for some exceptions have given rise to conflicting opinions and interpretations of what constitutes a "game of skill" and how it differs from a "game of chance"<sup>17</sup>

#### **3.2. JUDICIAL INTERPRETATION OVER TIME**

##### **(a) State Of Bombay vs R.M.D. Chamarbaugwalia, 1957 AIR 699**

This case examined the constitutional validity of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948. The Court reaffirmed that competitions involving substantial skill are not in the nature of gambling and therefore cannot be prohibited. It also ruled that since gambling and gambling-related activities are extra-commercium, they do not fall under the definition of "trade, commerce, or intercourse." As a result, neither Article 19(1)(g) of the Indian Constitution's fundamental right to trade and profession nor freedom of trade, commerce, and intercourse under Article 301 provides protection for it<sup>18</sup>.

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<sup>17</sup> Heena Chheda & Mirat Patel, Gambling And Betting Laws In India, Hariani & Co (Aug.7, 2013), [https://www.hariani.co.in/newsletters/August\\_7\\_2013.pdf](https://www.hariani.co.in/newsletters/August_7_2013.pdf)

<sup>18</sup> Shefali Malhotra, Does gambling qualify as a 'trade, commerce or intercourse'?, Centre for Civil Society (Dec.15, 2022), [https://ccs.in/sites/default/files/2022-12/does\\_gambling\\_qualify\\_as\\_a\\_trade.pdf](https://ccs.in/sites/default/files/2022-12/does_gambling_qualify_as_a_trade.pdf)

**(b) State of Andhra Pradesh v. K. Satyanarayana, AIR 1968 SC 825**

The Supreme Court examined whether the game of rummy constituted a “game of skill” or “game of chance”. The court interpreted that even though the distribution of cards involves chance, it requires a substantial amount of skill for memorising the fall of cards and the building up of rummy<sup>19</sup>. With the help of this judgement, it can be stated that a game that primarily depends on skill is not deemed gambling, even if there is an element of chance involved.

**(c) Dr. K.R. Lakshmanan vs State Of Tamil Nadu And Anr, 1996 AIR 1153**

The court in this case was debating whether horse racing was a skill-based or chance-based sport. It was noted that the form, fitness, and inherent ability of the horse, the jockey's skill, the weight carried, and the race distance all affect the outcome of a horse race. These are all objective facts that gamblers can evaluate. Therefore, in contrast to a lottery, the prediction of the race's outcome is based on knowledge, study, and observation.<sup>20</sup>

**(d) Avinash Mehrotra v. The State of Rajasthan & Ors,**

In a Special Leave Petition heard by the Supreme Court on 2021, the Court dismissed the petitioner’s challenge against the Rajasthan High Court’s decision upholding that the online fantasy game Dream11 involved substantial skill and did not constitute gambling. The High Court had held that success in Dream11 depends on a user’s judgment in selecting players based on form, performance statistics, strengths and weaknesses, and an understanding of the sport’s rules<sup>21</sup>. Consequently, the outcome is not determined merely by chance.

**4. ECONOMIC AND SOCIAL IMPLICATIONS OF LEGALIZATION OF BETTING AND GAMBLING IN INDIA.**

The legalization of gambling and betting in India brings with it a number of social issues as well as economic prospects. Regulated gambling has the potential to generate significant revenue given the size of the population and the expansion of digital access, but certain social aspects such as addiction, financial hardship, and social unrest are still major worries.

**4.1. ECONOMIC FACETS**

**(a) Monetary aspect**

The Legalization of gambling can provide significant revenue-generating opportunities to the nation as well as its citizens. States may levy taxes on the amount of stakes, which could bring substantial tax revenue. The Law Commission of India noted that A monitored structure would

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<sup>19</sup> State of Andhra Pradesh v. K. Satyanarayana, AIR 1968 SC 825.

<sup>20</sup> Law commission of India, Report No. 276, Legal Framework: Gambling and Sports Betting Including in Cricket in India, (2018).

<sup>21</sup> Gaurav Bhalla, Supreme Court Declares Dream11 as a Game of Skill, Ahlawat & Associates (Aug.10, 2021).

aid in reducing black money and improving the country's revenue streams, according to the Law Commission of India<sup>22</sup>.

### **(b) Employment opportunities**

In many jurisdictions, legalized gambling has become a major source of employment opportunities. Numerous skilled and unskilled workers are needed in the gambling industry, which generates both direct and indirect job opportunities<sup>23</sup>. Direct employment includes positions as dealers, cashiers, security guards, and software developers. Ancillary services like hospitality, tourism, maintenance, legal services, and technology assistance create indirect jobs. For instance, research indicates that Goa's legalisation of casinos greatly increased employment in the state's service and tourism industries<sup>24</sup>.

### **(c) Consumer protection**

Legalisation would make it possible for regulatory bodies to protect consumers, guarantee fair play, and encourage responsible gambling practices, bringing India in line with international standards<sup>25</sup>. This is a crucial step towards standardizing the vast underground gambling markets in India.

## **4.2. SOCIAL DRAWBACKS**

### **(a) Addiction and health issues**

With the growth of online betting sites and fantasy gaming, gambling addiction—also referred to as compulsive gambling or pathological gambling—has become a major social concern in India. The severe effects from this addiction include declining mental health, depression, anxiety, loneliness, and social isolation in both adult and adolescent population<sup>26</sup>.

### **(b) Financial and Familial Disruption**

Addiction could lead to severe financial distress and familial breakdowns, especially among lower-income and vulnerable groups. Indian society, which places strong emphasis on familial and social responsibilities, often witnesses financial ruin, family breakdown, domestic violence, and deteriorating mental health.

### **(c) Criminal conducts**

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<sup>22</sup> Law Commission of India, Report No. 276, Legal Framework: Gambling and Sports Betting Including in Cricket in India (2018).

<sup>23</sup> Law Commission of India, Report No. 276, Legal Framework: Gambling and Sports Betting Including in Cricket in India (2018).

<sup>24</sup> "Casinos have provided jobs, revenue, says Parrikar", The Times of India, (July.21, 2017).

<sup>25</sup> Whitepaper on Enhancing Consumer Rights in the Indian Online Gaming Sector, Primus Partners.

<sup>26</sup> Dr. Manoj Kumar Sharma and others, Behavioral addiction in the community: an exploration, at: [https://www.icmr.gov.in/icmrobject/custom\\_data/1720339391\\_behavioral\\_addiction\\_in\\_the\\_community.pdf](https://www.icmr.gov.in/icmrobject/custom_data/1720339391_behavioral_addiction_in_the_community.pdf)

Without legal regulation, risks such as match-fixing, especially in sports, fraud, and money laundering may rise. Consumers often enter their personal information on illegal sites, which may lead to various cyber threats, including identity theft, data breaches, and phishing attacks.

## **5. TOWARDS A BALANCED REGULATORY FRAMEWORK**

A fundamental shift from a restrictive approach to a balanced regulatory framework is required, considering the existing legal problems faced by India's betting and gambling industry. This strategy would try to reduce the social drawbacks while also maximising its economic potential. Such a framework would necessitate the harmonisation of laws at the central and state levels and clearly defined principles for efficient oversight. The objective of the paper is to establish a framework that is profitable, accountable, and transparent in order to benefit the state and safeguard its citizens.

### **5.1. NEED FOR REGULATION**

The emergence of online platforms for gambling and betting has led to significant drawbacks in India's legal framework. With the growing participants and inconsistent regulations, an integrated and organised regulatory framework is required due to the lack of uniformity and supervision. The crucial aspect of the need for legal regulation is to curb illegal activities such as money laundering, match-fixing, and other fraud activities. A notable case of how unregulated betting may affect sports integrity is the 2013 Indian Premier League (IPL) spot-fixing scandal<sup>27</sup>.

### **5.2. RECOMMENDATIONS FOR EFFECTIVE REGULATION**

A strong and effective regulatory framework for gambling and betting in India should rest on a few core principles, such as:

- I. Legal clarity and certainty:** There must be clarity in how the law treats different types of games. It is essential to clearly distinguish between “game of chance” and “game of skill”, with specified rules and regulations for each category. This step would definitely clarify the legal uncertainty that has persisted over the years.
- II. Harmonization of legislations:** Attempts should be made to harmonize the differing state-level laws, or at the very least, there should be an integrated national approach, particularly with regard to online gambling.

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<sup>27</sup> Board of Control for Cricket v. Cricket Association of Bihar & Ors, 2016 (8) SCC 535.

- III. Consumer Protection:** This includes mandatory age verification, self-exclusion systems that allow individuals to voluntarily exclude themselves, mechanisms for resolving disputes, and limits on how much users can deposit or spend.
- IV. Responsible gambling:** Government should mandate responsible gambling initiatives, such as public awareness campaigns and accessible support for addictive gamblers. Additionally, advertisements should be regulated to prevent misleading or aggressive marketing tactics.
- V. Robust Licensing and Taxation:** A transparent system for licensing and taxation of operators should be introduced. This would not only ensure compliance and accountability but also allow the government to generate significant revenue that can be reinvested into public welfare and regulatory oversight.
- VI. Central Regulatory Authority:** To establish an independent regulatory body with expertise in gaming, technology, and finance and equipped with adequate powers to oversee licensing and enforcement, investigate illegal activities, and provide consumer protection across the sector.
- VII. Complete oversight:** All betting and gambling transactions should be connected to both the operator's and the customer's Aadhaar Card or PAN Card to safeguard the public from the illegal activities and to improve transparency and state oversight<sup>28</sup>.

## 6. CONCLUSION

The analysis of the legal aspects of betting and gambling in India reveals a complex and often contradictory regulatory landscape. Historically rooted in colonial prohibitions, the current framework is predominantly restrictive, yet it struggles to contain a pervasive informal market. The significant structural fragmentation, which is mostly caused by the constitutional inclusion of "betting and gambling" on the State List, is a key finding. This has led to a mosaic of different state laws, which has caused regulatory arbitrage and serious inconsistencies.

Judicial interpretations, particularly the application of the 'skill versus chance' dichotomy, have provided some legal clarity for certain games but struggle to keep pace with the rapid evolution of online gaming. While skill-based games generally enjoy legal protection, the precise definition and consistent application of this distinction remain ambiguous in practice. Economically, the current prohibitory regime results in significant loss of tax revenues and allows a vast, untaxed illegal market to flourish, often linked to organized crime. Socially and ethically, the unregulated environment aggravates issues such as problem gambling and

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<sup>28</sup> Law Commission of India, Report No. 276, Legal Framework: Gambling and Sports Betting Including in Cricket in India (2018).

consumer exploitation, without the safeguards that a regulated market could provide. Overall, the existing approach is inefficient in both controlling the activity and maximizing its potential benefits, underscoring the need for comprehensive and unified reform.