

# Should Gambling Be Legalized in India?

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India has had a well-documented relationship with gambling since ancient times, even staking claim to its origins. Some cite the account of gambling in Rig Veda, an ancient Indian text written between 1700 and 1100 bce, as the first documented description of gambling anywhere in the world.<sup>1</sup>

delinquency, crime, and so on), anti-gambling legislation began to take shape in British-ruled India too. It was to restrict and regulate gambling practices in India that the Imperial Legislative Council enacted The Public Gambling Act of India in 1867.<sup>5</sup> It restricted most forms of gambling and, crucially, discriminated

powers to individual states to either adopt the Central Act or to make appropriate amendments, as they deem fit, to regulate or deregulate gambling activities within their boundaries. Hence, it is fair to say that gambling, in legal terms, is almost exclusively a state issue.

Across India, some gambling activities are legal and some are illegal. State-run lotteries are legal in 13 out of the 29 states and in 5 out of the 7 union territories. Horse racing is legal in 6 states, and casinos are legal in 2. Gambling at festival fairs is very popular in India, and they offer a range of legal and illegal gambling opportunities, collectively referred to as “festival gambling.”<sup>6</sup> Sports betting (other than on horse racing—note here that betting on horses is interpreted as being more a game of skill rather than chance in some states and hence it is legal), online or offline, is illegal all over India,<sup>2</sup> but online games of skill (like rummy, poker and fantasy sports) are legal. Although individual states can make appropriate amendments to the Central Act as they deem fit, to regulate or deregulate gambling activities within its boundaries, no state (other than Sikkim) has made an amendment allowing sports betting. The state of Sikkim, has since 2010, allowed sports betting via the internet only. So



Gambling’s popularity in India persisted during the medieval era (8th–17th century ce),<sup>2</sup> in colonial India (from the 17th century to 1947)<sup>3,4</sup> and to the present day.

Although initially the British encouraged gambling in India (in order to gain huge tax revenues), as the mood in Britain turned against gambling and its negative impact on the society became evident (including bankruptcies,

games of “pure chance” (e.g., betting on the day-to-day price of opium or cotton, amount of rainfall, etc.), which it made illegal, from games of skill and not just mere chance such as horse racing, which it made legal.<sup>1</sup> This law, the Public Gambling Act of 1867, remains to this day the only law that regulates gambling (other than on horse racing) across India. This is partly because the Centre has devolved

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both online and offline sports betting are illegal across India, except in Sikkim.

As a result of this huge interest, juxtaposed with the fact that sports betting is illegal, India has a huge and growing illegal betting market, with betting on cricket especially being extremely popular. Figures are unverifiable but it is estimated that about Rs. 2,500 crore (nearly \$375 million) was bet on one cricket match (India versus West Indies) in 2016 and that Rs. 30,000 crore (nearly \$4.4 billion) was bet on the 2016 T-20 Cricket World Cup.<sup>7</sup> In addition, the Federation of Indian Chambers of Commerce and Industry (FICCI), in its report in 2013, estimated the size of India's underground betting market at Rs. 3,00,000 crores (more than \$42.2 billion).<sup>8</sup>

It was in light of such a large illegal betting market and against the background of Indians' ever-present love for gambling that the Supreme Court of India, in 2016, mandated the Law Commission of India (LCI) to examine the best way to deal with India's illegal gambling. In response, the LCI, in its report,<sup>9</sup> said – “since it is not possible to prevent these activities completely, effectively regulating them remains the only viable option.”

Before we delve into the crux of our debate on legalization, a word about our current understanding on why people gamble. Over the past ten years or so, biopsychosocial formulations<sup>10,11</sup> have superseded cognitive-behavioral frameworks<sup>12</sup> in our understanding of the etiology of gambling disorder. Preliminary findings from population-based studies and genome-wide association studies do suggest a role for genes in determining who gambles and who does not. A strong neurobiological substrate for the development of gambling disorder is supported by studies showing differences in frontostriatal and limbic regions of the brain, such as the striatum, orbitofrontal cortex, anterior cingulate cortex, insula, hippocampus, and amygdala.<sup>13</sup>

In this background, this brief paper aims to dispassionately examine the arguments in favor and against legalizing or regulating gambling in India, and to suggest the ways forward.

## Arguments for Legalization

Many of the major arguments for the legalization and regulation of the illegal gambling/gaming industry in India revolve

around the fact that this industry is huge in economic terms. As outlined above, the amounts of money involved in India are extremely large, and the numbers of people involved are similarly huge, with the most popular form of illegal gambling being betting on sporting activities.<sup>14,15</sup>

One central argument relates to the number of people involved. As reported earlier, the LCI has suggested that, because the law is flouted so prevalently, sports betting should instead become legalized (albeit strictly regulated). This, of course, is precisely the argument made by those in favor of the legalization/regulation of both drugs and prostitution (both areas which have also been legalized and regulated in some countries over the years<sup>3</sup>). The argument in all of these cases is that the law needs to work by public consent—if governments frame laws that are flouted by a significant number of the population, it demonstrates that there is no public consent to those laws. Further, policing these laws becomes a major problem due to the sheer numbers of “law-breakers” and the consequent potentially massive drain on police time if the law is to be implemented successfully. Effectively policing the laws results in large numbers of people gaining criminal records, with all of the consequential social problems this can lead to (the difficulties for those with criminal records to obtain employment or housing, the social and family stigma related to having a criminal record, etc.).

A second central argument relates to the amount of money involved. Given an annual spend of the equivalent of tens of billions of US dollars, it naturally follows that, if taxed effectively, the government could make substantial economic gains from the scale 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 multifold 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.<sup>16</sup> If this were to be taxed efficiently, this could raise very substantial sums for the public purse. And if more areas of gambling or gaming (such as sports betting) were to become legalized, regulated, and taxed efficiently, this would

raise even larger sums of money for both the state and the central governments.

A related argument is that, if gambling were to be legalized, it would stop illegal (black) money being used or “laundered” in illegal sports betting, which is often used to fund terrorism and related nefarious activities.<sup>17</sup>

A further argument suggests that, if gambling were legalized/regulated, this might create further job opportunities and might potentially boost tourism, with entailing economic gain. Often-cited examples are those of the legally operating casinos in Goa (an Indian state) attracting tourists and the Kerala (another Indian state) state lottery providing job opportunities and tax revenue. It is to be noted here that all lotteries in India are run exclusively by the respective state governments. However, all casinos in India (legal only in Goa and Sikkim) are privately owned.

One other argument often posed in favor of legalization/regulation is that gambling adversely affects only a minority (less than 1% of the population) while, for the vast majority, it remains a pleasurable pastime with no negative consequences. Hence, why deny the large majority a harmless leisure activity merely for the sake of a minority of “irresponsible” problem gamblers?

## Arguments Against Legalization

In our opinion, there are two main arguments against legalization/regulation. The first is that, although laws must have public consent, it is also the job of the government to lead the people and not to simply follow popular views, especially if there are “public interest” reasons for pursuing unpopular routes. Two common “public interest” reasons are if there are moral reasons (e.g., banning the death penalty, which many governments have done even though popular opinion is generally in favor of retaining it) and public health reasons (e.g., compulsory seat-belt-wearing, which at the time of introduction is generally not favored, but public health concerns override popular views) for pursuing something.

Both these positions have been considered with respect to gambling. The moral

argument is that, although many people want to gamble, it is morally wrong for the government to legalize it, even considering the potential advantages of such legalization, because gambling is potentially both problematic and wasteful for all levels of society from the individual through the family to the societal level.<sup>18</sup>

The public health argument is that, in common with other potentially addictive or problematic behaviors (such as drug use), there is a strong relationship between consumption and subsequent problems: the more the people who indulge in a behavior, the greater the likelihood that more of them will develop problems; and for each person who does indulge in that behavior, the more time the person spends for that behavior, the more likely that person is to develop problems.<sup>19</sup>

Thus, the argument goes, if gambling were to be legalized, it follows that more people would gamble, and subsequently, more would become problem gamblers. It also follows that, if more people gamble problematically, this will result in greater gambling-related harm to the individuals, to their families, and to the society.

There is good evidence to corroborate these public health views. For example, studies have shown that increased availability of<sup>20</sup> and easy accessibility to<sup>21</sup> gambling increased the participation in gambling and also the prevalence of problematic gambling. Hence, it is only reasonable to assume that if gambling were to be legalized in India, coupled with high internet penetration and easy access to advanced technology, more people will gamble and more will have gambling problems.

Research from across the world has shown that gambling and gambling-related problems adversely impact the most vulnerable in the society, such as the young, the elderly, ethnic minorities, and the socially and/or economically disadvantaged.<sup>22,23</sup> It is also likely that, if gambling were to be legalized in India, the rates of problem-gambling might be even higher than elsewhere: the only studies of gambling among school and college students in India<sup>14,15</sup> showed that, though the prevalence of gambling was low, the proportion of people who had developed problem gambling among those who did gamble was considerably higher in

comparison to studies from high-income countries. Furthermore, people with problem gambling in both these studies from India demonstrated numerous negative correlates such as greater academic failures, higher substance use, higher psychological distress scores, and higher suicidality, similar to correlates reported from studies among young people in high-income countries.<sup>24</sup>

Problem gambling can lead to severe financial difficulties such as large debts, poverty, and even bankruptcy. Problem gamblers also have significant disruption, conflict, breakdown, and estrangement in relationships.<sup>25</sup> Gamblers are less productive at work and often become involved in criminal activities relating to fraud and embezzlement, to address the financial demands of their gambling.<sup>26</sup> In addition, harms that are often not apparent include the higher rates of psychosomatic illness/symptoms (cardiovascular, gastrointestinal, etc.)<sup>27</sup> and psychiatric illnesses like anxiety, depression, substance use, and personality disorders<sup>28</sup> experienced by problem gamblers. Some of the other negative consequences include the increased reliance on social and health services and disruption of social cohesion.<sup>21</sup>

Furthermore, although one of the key arguments in favor of legalization is that this would remove illegal money and illegal laundering of such money from the country, there is in fact no guarantee that legalizing gambling would have this effect: and indeed, no evidence from any country that has legalized gambling has demonstrated this effect. Hence, legalizing gambling to stop money laundering, or terrorism possibly funded through money made from illegal gambling, does not seem a logical or theoretically robust argument. A similar rationale was proposed for the recent demonetization experiment in India, where overnight all currency notes larger than Rs 100 (just more than US\$1) were banned and new currency notes were issued over the ensuing days and weeks. It was argued that this would result in flushing out all existing illegal “black” money in circulation or in storage, because people who wished to exchange large amounts of “demonetized” currency for new notes needed to explain where they had obtained these large amounts from. But this experiment

is widely regarded to have failed, as reportedly over 99% of the currency was returned to the government with adequate explanations.<sup>29</sup>

A final argument against legalization/regulation is that, even if it were to be considered a good idea in theory, the time for such a major policy change in India is not right, because India does not possess the infrastructure to conceive, implement, monitor or regulate such a huge change. Hence, it is argued that should gambling be legalized in India without the support to “back up” such a policy change, it could turn into a reckless and unfettered economic opportunity for many businesses that would rush to develop gambling across India.

## The Ways Forward

It is clear that there is no unequivocal evidence to support either legalization or the status quo. Certainly, legalization could generate large sums of money in tax revenue; but there is a clear argument that, if legalization were to be considered, a lot more would need to be done before introducing such a significant change in policy. We now briefly consider such measures, which, in our view, need to be thoroughly thought through, prior to India considering legalizing gambling.

First, because India is such large and diverse a country, it would make sense to pilot any such proposed changes in a single (or a small number of) state(s) before considering an India-wide policy shift. Implementing any such gambling policy change in one state would help ensure that gambling and any related harms remain more contained, and hence more feasible for both pre- and post-policy change evaluation to be carried out and for relevant policy-impact research to be conducted.

Second, given the major lack of local and relevant evidence-base within India, much more research needs to be done in this field so that any proposed policy shift can utilize Indian evidence as opposed to international research with questionable relevance and applicability to the Indian context. Prevalence of gambling across the various states and union territories within India; the scale of legal and illegal gambling; the extent of gambling-related harm; professionals’ awareness of

gambling problems and how to identify, refer, and treat persons suffering from them; public health aspects; treatment facilities and their effectiveness, etc., are all high-priority areas.

Third, state-wide strategies on gambling in each state that might seek to implement such a policy change (or might seek to become one of the pilot states) would need to be formulated (and maybe a national one would need to be developed too, in the future), with a body (in each state or nationally) responsible to formulate, implement, monitor, and regulate those strategies.

Fourth, the role of the gambling industry in any policymaking or funding for research, education, or treatment needs to be carefully thought about, to ensure true “independence” and ethical robustness. One could either take the “polluter pays” view and thereby require the gambling industry to fund both the treatment services and the measures to minimize gambling-related harm, or take the view that there needs to be a strict division between the gambling industry and any regulatory/advisory/policy body. In any event, a strict ethical code of practice for the industry’s involvement would need to be imposed and monitored, to allay any ethical concerns.

Fifth, if gambling were to be legalized in India, it is important to consider whether such gambling would be a monopoly of the government (e.g., like the sale of alcohol in some states in India such as Kerala and like state lotteries are at the moment) or whether private firms should have a role as well. This is crucial in determining who takes the lead responsibility to ensure that gambling-related harm is minimized.

Finally, legalize or not, India needs to adopt a public health prevention approach to gambling and gambling-related harm, encompassing primary, secondary, and tertiary levels of prevention.

## Conclusion

In our view, there is no convincing argument as yet for legalizing gambling in India. Even if India were to contemplate such a policy change, several important and challenging measures need to be put in place first. We conclude that, at this stage, more thought needs to be given to the *why* question (why should gambling

be legalized) rather than the *how* question (how can it be legalized). The answer to the *why* question should be informed by empirical evidence through well-designed ethnographic and epidemiological research across India.

### Declaration of Conflicting Interests

Professor Sanju George is an advisor to the All India Gaming Federation (AIGF), a not-for-profit organization focusing on policy and research among various stakeholders working with the gaming industry. He has not received any travel or speaker honoraria from AIGF, nor has he accepted any hospitality from AIGF or any representative of the gambling industry. Professor Richard Velleman and Dr Benedict Weobong have nothing to declare.

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