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Navigating the Legal Landscape: Frameworks and Regulations for Sports Betting and Gambling

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This article explores the world of sports betting and gambling, looking at how it has evolved and the challenges in regulating it. It takes a closer look at how countries like the United Kingdom, and France, with a major focus on how India, approaches the issue of sports betting and gambling. By comparing these approaches, the article finds lessons India could learn from other nations and highlights the potential benefits of legalized gambling, such as making money, preventing crime, and creating jobs, but also mentions the risks, like match-fixing and corruption. Drawing from the experiences of the United Kingdom and France, the article suggests a customized set of rules for India, focusing on transparency and accountability. It stresses the importance of having flexible regulations that can adapt to changes in sports betting and gambling. Ultimately, the article argues for a well-balanced set of laws that can handle the complexities of this industry while keeping the public's interests in mind.

Keywords: *sports betting, gambling, legalization, India's regulatory framework, accountability.*

INTRODUCTION

Professional sports teams collaborate to create a league product initially designed for spectator entertainment. However, this product has evolved into a commodity sold to four distinct groups. First, some fans actively support leagues through attendance, television viewership, and

merchandise purchases. Second, television and media companies acquire rights to broadcast games as part of their programming. Third, communities invest in facilities and local clubs, contributing to the league's success. Lastly, corporations support leagues through various means, such as sponsorships, team acquisitions, and increasing revenues.¹ This intricate web of involvement extends to sports betting, where the heightened popularity of professional sports enhances the betting market. As leagues grow within the global entertainment industry, sports betting becomes increasingly intertwined, with fans and corporations alike engaging in wagering activities. Thus currently, professional sports leagues and betting are positioned to remain a growing segment within the broader global entertainment industry.

Sports betting is a form of gambling where individuals, known as bettors or punters, place wagers or bets on the outcome of a sporting event. This practice has become a major component of the worldwide gaming business and is ingrained in the cultures of many different societies. Three requirements must be met to engage in gambling: consideration or money, which is the total amount staked; risk; and price or result of staking the money. Sports gambling is a generic term where betting comes under it and is often related to wagering on sporting events². It encompasses a wide range of activities, including predicting game outcomes, player performances, or specific events within a game. Sports is a huge source of not only entertainment today, but also a lucrative business because of the factor of sports betting and gambling for the public. The fusion of sports and betting has transformed the industry, infusing it with economic significance alongside the thrill of competition. The allure of predicting and wagering on sporting events has not only heightened the excitement for spectators but has also created a substantial financial ecosystem.

Wagering agreements involve two parties agreeing that their respective actions depend on the occurrence of an uncertain future event in which neither party has a direct interest. This category

¹ 'What Is the Sports Product and Who Buys It? The Marketing Professional Sports Leagues' (1999) European Journal of Marketing 33(3/4):402-419 <<http://dx.doi.org/10.1108/03090569910253251>> accessed 23 January 2024

² 'Distinction between Wagering, Gambling and Betting' (*Advocate Khoj*) <<https://www.advocatekhoj.com/library/lawreports/legalframework/8.php?Title=Legal%20Framework%20%20Gambling%20and%20Sports%20betting%20including%20Cricket%20in%20India&STitle=Distinction%20between%20Wagering,%20Gambling%20and%20Betting>> accessed 23 January 2024

encompasses various activities such as betting and gambling. Justice Hawkins, in the landmark case of *Carlill v Carbolic Smoke Ball Co*,³ defined a wagering agreement as one where two individuals, holding opposing views on the outcome of a future uncertain event, agree that, based on the event's determination, one will receive a sum of money or other stakes from the other. Neither party has any interest in the contract beyond the amount or stake they stand to win or lose, with no other consideration involved. If one party can only win and not lose, or vice versa, the agreement is not classified as a wagering contract. Gambling, a specific subtype of wagering agreements, was elucidated by the Honorable Supreme Court of India in the case of *Dr. K. R. Lakshmanan v State of Tamil Nadu*.⁴ The court defined gambling as the act of paying a price for the opportunity to win a prize. Games may involve elements of chance, skill, or a combination of both. A game of chance is determined entirely or in part by luck or lot, such as the throw of dice, the spinning of a wheel, or the shuffling of cards.

In sports betting and gambling, the linchpin of the entire experience lies in understanding and navigating the intricacies of odds.⁵ For those entering the world of betting, it's vital to grasp that odds serve as a numerical representation of the probability of a particular outcome, expressed in the form of a price. Despite this seemingly straightforward relationship between odds and probability, it's crucial to note that odds, as presented in betting scenarios, may not always perfectly mirror real-life probabilities. Consequently, while odds provide a numerical indication of probability, they also encapsulate the bookmaker's strategic considerations, making them a multifaceted element in the world of sports betting and gambling.

The most common and simple type of bet is the money line bet,⁶ where in essence, it's a direct wager on the outcome of the match without considering point spreads or margins of victory. When you place a moneyline bet on a team, you're essentially betting on that team to emerge victorious. For instance, in a football match, if you bet on Team A and they win, your bet is

³ *Carlill v Carbolic Smoke Ball Co* [1891-4] All ER 127

⁴ *Dr. K.R. Lakshmanan v State of Tamil Nadu and Anr* AIR 1996 SC 1153

⁵ Devon Platana and Brian Pempus, 'How Does Sports Betting Work?' (*Forbes*, 13 November 2023) <<https://www.forbes.com/betting/guide/how-does-sports-betting-work/>> accessed 23 January 2024

⁶ Ziv Chen, '6 Most Popular Betting Types Every Beginner Needs to Know' (*Casino*, 07 August 2022) <<https://www.casino.org/blog/betting-types/>> accessed 23 January 2024

successful and conversely, if Team A loses, your bet is unsuccessful. Another prevalent form of betting is the point spread bet. Here, the focus shifts from predicting the outright winner to gauging a team's margin of victory concerning the final result. In point spread betting, a favorite is identified by a minus symbol, while an underdog is indicated by a plus symbol. For instance, if a team is listed at -8.5, they need to win by more than 8.5 points for the bet to be successful. Beyond the straightforward money line and spread bets, one of the most popular forms of sports betting is the point total bet, often known as an over/under bet. This type of wager involves predicting whether the combined score of both teams will surpass or fall below a specified total. In a point total bet, you're essentially forecasting the cumulative points scored by both teams. For instance, in a football matchup like the Miami Eagles versus the Detroit Lions, if the set point total is 45.5, you decide whether the actual combined score will be over or under that figure. The other famous types of bets include prop bets, teasers, parlay bets, middle bets, futures bets, live betting and points betting.

THE ORIGINS OF GAMBLING AND BETTING

The origins of sports betting trace back to ancient Greece,⁷ where the practice is believed to have originated. The Greeks engaged in various games like heads and tails, as well as dice rolling, turning these activities into spectator events where bets were placed. This trend continued to flourish during the Roman Empire, notably with the spectacle of gladiator fights. Romans not only enjoyed the entertainment value of these contests but also actively participated in betting on the outcomes. The concept of formalized sports betting, however, saw its first recorded instances in the 18th century.⁸ During this period, betting on sports events became more structured and common, marking the transition from informal wagers to an organized and regulated activity. This laid the foundation for the modern sports betting landscape that we are familiar with today. Horse racing was a popular sport at these events too, because of its intensity and rush of adrenaline. The 19th century saw considerable advancements in sports betting

⁷ 'History of Sports Betting' (*Play Today*, 18 June 2023) <<https://playtoday.co/blog/history-of-sports-betting/#:~:text=Sports%20betting%20grew%20more%20common,thoroughbred%20horse%20racing%20in%201868.>> accessed 21 January 2024

⁸ 'History of Sports Betting' (*RUE*, 06 September 2023) <<https://rue.ee/blog/history-of-sports-betting/>> accessed 23 January 2024

across multiple countries like in the United States, England, and Germany, betting on sports gained and began to shape popular culture.

Joseph Oller⁹ is known for creating the first betting pool when in 1865, he set up a central cashier in Paris where people could place bets. This idea became very successful, and it inspired the creation of similar funds and by the end of the 19th century, laws were passed in countries like France and Great Britain to regulate betting activities. The first act to have been passed was 'The 1960 Betting and Gambling Act which played a pivotal role in shaping the landscape of sports betting in the United Kingdom, by not only legitimizing sports betting but also opening the door for wagers on various sporting events. This legislation marked a significant stride toward recognizing sports betting as a legitimate and acceptable form of entertainment, where it not only legitimized sports betting but also opened the door for wagers on various sporting events. In 1961, 'The Interstate Wire Act'¹⁰ further influenced the trajectory of sports betting, particularly in the United States aimed at curbing organized crime's involvement in the industry and the act also prohibited the use of telecommunications for placing interstate bets. This legislative move not only addressed concerns related to criminal influence but also, in subsequent years, played a crucial role in shaping the evolution of internet sports betting.

CURRENT JURISPRUDENCE IN INDIA

'Betting and Gambling' in India is a state subject under the 7th schedule of the constitution¹¹ and thus individual states have the right to make laws and govern such activities. However, the state laws about the specific activity of gambling are not consistent. While some states outright prohibit gambling, others allow some regulated types of it. The negative perception of betting in India is deeply rooted in religious convictions and cultural norms, where the swift accumulation of wealth without the need for hard work is often considered morally

⁹ 'Pool' (*Britannica*, 2024) <<https://www.britannica.com/topic/pool-gambling>> accessed 23 January 2024

¹⁰ Anthony Cabot and Greg Cloward, 'FEDERAL WIRE ACT SHOULD ADJUST to STATE-REGULATED SPORTS WAGERING, NOT the OTHER WAY AROUND: A PROPOSAL for CHANGE' (2021) 25(3) *Gaming Law Review* <<https://doi.org/10.1089/blr.2021.0004>> accessed 23 January 2024

¹¹ Vaibhav and Varun, 'All about Gambling and Should It Be Legalized' (*Legal Service India*) <<https://www.legalserviceindia.com/legal/article-4652-all-about-gambling-and-should-it-be-legalized.html>> accessed 23 January 2024

questionable¹² and even shameful. The association of betting with instant financial gains adds to its portrayal as an unethical activity and even before the introduction of specific laws regulating betting, it was already deemed illegal and viewed as a mistake due to societal norms and values, often portraying it as an unethical activity that yields instant financial gains without hard work as exemplified in the case of *RMD Chamarbaugwala v Union of India*,¹³ with Chief Justice S.R Das insightful analysis, as elaborated below. The highly addictive nature of gambling contributes to financial harm, as individuals, driven by the hope of significant rewards, end up losing substantial amounts. This financial strain has been linked to increased crime rates, including theft and borrowing from loan sharks, potentially leading to money laundering if betting is legalized.

The Public Gambling Act of 1867 in India¹⁴ is the main act that governs public gambling in India. Some of the most important prohibitions of this legislation include restrictions on the ownership, operation, or management of gaming houses. The Public Gambling Act of 1867¹⁵ delineates a 'common gaming house' as a physically enclosed space, be it a house or tent, where gaming instruments are stored or employed. The primary intent is the accumulation of profit or gain for the individual in possession, ownership, or occupation of such enclosed premises, or utilizing gaming instruments within them. However, in specific states, such as Delhi, the classification of enclosed physical premises as a common gaming house does not hinge on the necessity for the individual to own, occupy, or keep the premises to derive profit or gain. This variance in interpretation underscores regional nuances within the application of the law, allowing for distinctions in the criteria for identifying common gaming houses in different jurisdictions.

Individuals are also barred from participating in gambling activities within common gaming houses or being present at such locations for gambling. Additionally, the provision of funds for

¹² Mayank, '5 Major Reasons Why Betting Is Illegal in India' (*G2G News*, 26 January 2023) <<https://g2g.news/online-gaming-laws/5-major-reasons-why-betting-is-illegal-in-india/>> accessed 24 January 2024

¹³ *RMD Chamarbaugwala v the Union of India* (1957) SCR 874

¹⁴ The Public Gambling Act 1867

¹⁵ Advocate Chikirsha Mohanty, 'Is Gambling Legal in India? Here's All You Need to Know' (*Law Rato*, 23 August 2023) <<https://lawrato.com/indian-kanoon/criminal-law/is-gambling-legal-in-india-heres-all-you-need-to-know-2837>> accessed 23 January 2024

gambling to individuals frequenting such gaming houses is explicitly prohibited. The Act also stipulates penalties for gaming activities conducted in public streets, places, or thoroughfares, including the organization or encouragement of animal fights, with violators subject to fines.

Clause 9¹⁶ of this act says that it shall not be mandatory to provide evidence of any money, or wager to stake to convict a person of keeping a common gaming house. This loophole may enable those managing gaming houses to escape conviction by downplaying the commercial nature of the operations. Additionally, it could create ambiguity in distinguishing between casual, non-stakes gaming and more organized, commercial gambling enterprise furthermore, clause 12 of this act distinguishes between a ‘game of skill’ and a ‘game of chance’, creating further complexities in the interpretation and further enactment of the act. A game of skill is a game where the player is required to not only use his skill, mental and physical and only merely luck to win, whereas in the case of a game of chance, it depends on the luck of a person irrespective of a talent or skill and thus where the player emerging victorious is only a matter of luck.¹⁷

In the *Dr. K.R. Lakshmanan v State of Tamil Nadu And Anr*,¹⁸ the petitioners had challenged the constitutional validity of ‘The Tamil Nadu Horse Races (Abolition and Wagering or Betting) Act,’ 1974 alleging that it infringed Articles 14¹⁹ and 19(1)(g)²⁰ of the Indian Constitution.²¹ Furthermore, in addressing whether gambling is protected by constitutional provisions, the Court held that it does not fall under the purview of Article 19(1)(g)²² or Article 301²³ of the Constitution and for the act to not be considered as betting or gambling and to enjoy protection under 19(1)(g) is must have a substantial degree of skill which makes it unique. Thus, the Court

¹⁶ The Public Gambling Act 1867

¹⁷ ‘Game of Skill vs Game of Chance- How to Differentiate?’ (*IAS EXPRESS*, 20 January 2023)

<<https://www.iasepress.net/game-of-skill-vs-game-of-chance-how-to-differentiate/>> accessed 23 January 2024

¹⁸ *Dr. K.R. Lakshmanan v State of Tamil Nadu and Anr* AIR 1996 SC 1153

¹⁹ Constitution of India 1950, art 14

²⁰ Constitution of India 1950, art 19

²¹ ‘Doctrine of res extra commercium’ (*Legal Service India*)

<[https://www.advocatekhaj.com/library/lawreports/legalframework/14.php?Title=Legal%20Framework%20-%20Gambling%20and%20Sports%20betting%20including%20Cricket%20in%20India#:~:text=Lakshmanan%20\(Dr.\),%20of%20the%20Constitution.>](https://www.advocatekhaj.com/library/lawreports/legalframework/14.php?Title=Legal%20Framework%20-%20Gambling%20and%20Sports%20betting%20including%20Cricket%20in%20India#:~:text=Lakshmanan%20(Dr.),%20of%20the%20Constitution.>)> accessed 23 January 2024

²² Constitution of India 1950, art 19

²³ Constitution of India 1950, art 301

was satisfied that, horse riding is one such sport that involves special skills of the horse as well as the rider and declared the law as unconstitutional. Thus, in this case, the Supreme Court emphasized that success in a game of skill hinges on the player's combination of knowledge, attention, training, experience, adroitness, and to a certain extent, luck.

In the case of *RMD Chamarbaugwala v Union of India* case,²⁴ Chief Justice S.R Das noted that ancient Indian seers and lawgivers viewed gambling as a sinful and harmful vice, explicitly condemning its practice and referring to the Rigveda, he highlighted hymn XXXIV, which portrays dice as a deceitful tool of gambling causing grievous harm and warns against their usage. The Mahabharata, an epic narrative, further illustrated the dire consequences of gambling through the unfortunate predicament of the Pandavas who had lost their kingdom. He also drew attention to the perspectives of prominent ancient Indian lawgivers on gambling, where while Manu outright condemned gambling, Yajnavalkya proposed state control over it, with provisions for branding and punishment for those using false instruments. Kautilya supported state control, envisioning a means for the state to generate revenue from gambling activities.

In the case of the *State of Andhra Pradesh v K. Satyanarayana* (1967)²⁵, the Supreme Court rendered a verdict that distinguished the card game rummy from other 'three card' games. The court recognized rummy as a game predominantly based on skill rather than one solely dependent on chance, irrespective of variations in format, venue, or stakes involved. This legal interpretation has significant implications, especially in the context of state enactments governing betting and gambling, which supersede the Public Gambling Act of 1867 and several state enactments, such as the Assam Game and Betting Act, 1970, the Orissa (Prevention of) Gambling Act, 1955, the Telangana State Gaming (Amendment) Ordinance, explicitly prohibit games involving cash stakes. These legislations do not provide an exception for games of skill

²⁴ *RMD Chamarbaugwala v the Union of India* (1957) SCR 874

²⁵ Arjun Maheshwari, 'ONLINE GAMING, CASINOS AND FANTASY SPORTS- AN OVERVIEW OF GAMBLING LAWS' (*Manupatra*, 25 August 2023) <<https://articles.manupatra.com/article-details/ONLINE-GAMING-CASINOS-AND-FANTASY-SPORTS-AN-OVERVIEW-OF-GAMBLING-LAWS>> accessed 23 January 2024

and chance. Accordingly, residents of Assam, Gujarat, Nagaland, Odisha, Sikkim, and Telangana are currently restricted from participating in such games.

IMPACT AND IMPERATIVE OF LEGALIZING BETTING IN INDIAN CRICKET

The 2013 Indian Premier League²⁶ spot-fixing and betting case started when three cricket players—Sreesanth, AjitChandila, and Ankeet Chavan—were taken into custody by the Delhi Police on suspicion of spot-fixing. The incidents involved cricketers, team owners, and officials engaging in betting and passing sensitive information underscoring the urgent need for stringent laws to prevent such malpractices. A four-person committee known as the Mudgal Commission²⁷ was established to look into charges of corruption made against Meyappan and Raj Kundra, among others. Gurunath Meiyappan, another member was found guilty by the committee of betting on the IPL matches and providing away team secrets. The committee suggested conducting additional probes against Raj Kundra and Shilpa Shetty, who were the Rajasthan Royals' co-owners at the time. Cricket, being a sport deeply cherished by millions in India, demands a comprehensive legal framework that safeguards its integrity, ensuring fair play, and transparency, and protecting both the game's collective image and the reputations of its participants. This case served as a clarion call for the establishment of stringent laws to curb gambling-related irregularities and preserve the sanctity of cricket as a fair and unbiased sport. The recommendations of the Mukul Mudgal Commission, pointing out the ineffectiveness of current measures, the need for stricter control on player agents, and the presence of conflicts of interest, further emphasize the imperative for robust legal mechanisms.

The match-fixing scandal had profound repercussions on the credibility and perception of the Indian Premier League (IPL), shattering the long-standing image of cricket as a gentleman's sport. The revelation that matches could be manipulated for financial gains raised serious doubts about the integrity of the tournament. This incident brought to light the darker aspects of the IPL, showcasing the potential destruction of cricket as a sport when excessive revenue is

²⁶ Pratap Alexander Muthalaly, 'Case Study of the IPL Spot Fixing and Betting Case' (*iPleaders*, 17 January 2021) <<https://blog.iplayers.in/case-study-of-the-ipl-spot-fixing-and-betting-case/>> accessed 21 January 2024

²⁷ Justice Mudgal IPL Probe Committee, *A REPORT ON THE ALLEGATIONS of BETTING and SPOT/MATCH FIXING in the INDIAN PREMIER LEAGUE-SEASON 6* (2014) vol 1

not adequately regulated. The lack of effective regulation within Indian cricket, particularly in the IPL, was glaring, exposing numerous instances of conflict of interest and even nepotism

The aftermath saw a decline in IPL viewership by 14 percent²⁸, and a pervasive suspicion emerged, tainting the thrill of the game. Fans began to question the authenticity of every IPL match, fearing that betting and gambling might influence player performance, cricket scores, or match outcomes. This erosion of trust had a profound impact, transforming the once-pure enjoyment of the sport into a realm of skepticism. While the Lodha committee's recommendations marked a significant step toward reform, there remains a pressing need for continuous improvements in the cricketing framework to ensure the restoration of faith in the game's integrity and the resumption of an untainted viewing experience for cricket enthusiasts. It underscored the urgency to legalize and regulate betting, a viewpoint emphasized by figures like Justice Mudgal and endorsed by the Lodha committee.²⁹ The underground economy associated with illegal betting not only results in massive financial losses but also undermines the integrity of the sport and its associated leagues.

ONLINE GAMING AND BETTING AMENDMENTS IN INDIA

On October 22nd, 2020, the government of India notified amendments to the Information and Technology Act 2021,³⁰ where some of the major amendments related to online games included- , any game that asks a player to deposit money in the hopes of earning a prize – which could be monetary or in-kind – is considered an online game. Stated differently, this term applies to any game that involves ‘real money.’ Furthermore, it provides for the registration of an intermediary in online gaming, which may be an intermediary that provides one or more online games. The

²⁸ Gaurav Laghate, ‘Spot-Fixing Impact: IPL Viewership Drops 14%’ *Business Standard* (Mumbai, 24 May 2013) <https://www.business-standard.com/article/companies/spot-fixing-impact-ipl-viewership-drops-14-113052300843_1.html> accessed 23 January 2024

²⁹ Chitranjali Negi Advocate, ‘Lodha Committee Reforms for the Board of Control for Cricket in India’s (BCCI): An Analysis’ (2022) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4182837> accessed 23 January 2024

³⁰ Amendments to IT Rules, 2021’ (*PRS Legislative Research*) <<https://prsindia.org/billtrack/amendments-to-it-rules-2021#:~:text=The%20Amendment%20adds%20that%20intermediaries,being%20hosted%20on%20their%20platforms.>>> accessed 23 January 2024

responsibilities of online gaming intermediaries include publishing terms and conditions, privacy policies, and making sure that no online game allows ‘betting and gambling’. They also must make sure that all relevant information about the online game is available on their website. Therefore, an online game platform like Dream 11 is an ideal and clear example of an online game intermediary.

However, there is currently an absence of any financial repercussions for non-compliance with any of the above obligations but will lose the safe harbor granted under Section 79(2) of the Information Technology Act, 2000.³¹ The absence of financial penalties in the draft Amendments for non-compliance implies that online gaming intermediaries, while not subject to immediate monetary sanctions, face significant consequences in terms of losing the safe harbor protection granted under Section 79(2) of the Information Technology Act, 2000 (IT Act, 2000). This safe harbor provision shields social media intermediaries from legal action concerning the information, data, or communication links they make available or host for third parties. Without safe harbor protection, online gaming intermediaries become vulnerable to legal actions and liabilities arising from content posted by users. The repercussions may include being held legally accountable for objectionable or unlawful content, potential lawsuits, and regulatory scrutiny. This loss of immunity heightens the responsibility of online gaming intermediaries to adhere to the outlined obligations in the absence of monetary penalties.

Additional significant amendments include an additional requirement that all intermediaries involved in online gaming register with a self-regulatory organization, which will thereafter register with the Ministry of Electronics and Information Technology. The self-regulatory organization will also create a framework to protect interests, assess and verify that online games follow the framework, and update and enhance it regularly. This ensures a structured regulatory framework for online gaming. This oversight can contribute to fair and ethical practices within the industry. The Ministry of Electronics and Information Technology also retains the authority, at its discretion, to designate or publicize any game that falls within the purview of online gaming. It might act in this way to safeguard minors, the peace in the

³¹ Information Technology Act 2000, s 79(2)

community, or the country's integrity and sovereignty. This proactive approach addresses concerns related to the potential impact of online gaming on vulnerable populations and societal harmony.

In the context of the recent government action to ban 174³² gambling and betting sites in December 2023, including well-known platforms like Fairplay, Dafabet, and Betwaysatta, reflected a proactive move to regulate the online gaming and betting landscape. This governmental intervention aligns with efforts to curb potentially harmful or unregulated activities in the sector concerning the Information and Technology Rules 2021. The ban indicates a recognition of the need for stringent measures to address issues related to illegal gambling, fraud, or other concerns associated with certain online platforms.

The online gaming industry presents a nuanced and rapidly evolving landscape that poses challenges for comprehensive regulation under the IT Rules, 2021. Notably, the draft amendments appear to lack a thorough exploration of various facets within this dynamic platform³³. One critical aspect left unaddressed is the distinction between 'games of skill' and 'games of chance,' a differentiation commonly emphasized in gaming legislation to delineate them from betting or gambling activities. In contrast to the current draft, specific regulations, such as the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act 2016³⁴ acknowledge the significance of distinguishing between these categories. For instance, Section 2(1) of the Nagaland Act³⁵ explicitly excludes the staking of money on games of skill from the ambit of gambling. The legislation further elucidates the concept of games of skill in Section 2(3)³⁶, providing a detailed definition and listing them in Schedule A to the Act. This meticulous approach in other legislations recognizes that not all online games involve chance, and some are primarily skill-based. The absence of a similar emphasis in the current

³² Anuradha Shukla, 'India's Government Blocked 174 Betting and Gambling Sites' *The Economic Times* (11 December 2023) <<https://economictimes.indiatimes.com/industry/media/entertainment/indias-government-blocked-174-betting-and-gambling-sites/articleshow/105902632.cms?from=mdr>> accessed 23 January 2024

³³ 'Regulating Online Gaming under the Information Technology Law' (*JusIP Law Firm*, 16 April 2023) <<https://www.jusip.in/regulating-online-gaming-under-the-it-law-india/>> accessed 23 January 2024

³⁴ Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act 2016

³⁵ Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act 2016, s 2(1)

³⁶ Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act 2016, s 2(3)

draft amendments raises concerns about the potential oversight of this crucial distinction. By incorporating a more nuanced understanding of games of skill versus games of chance, regulations should be able to accommodate the diverse nature of online gaming activities, ensuring a fair and comprehensive legal framework for this evolving industry.

CURRENT JURISPRUDENCE IN THE UNITED KINGDOM

British gamblers spend about £14 billion³⁷ (\$18.9 billion) annually, making the UK the second-largest gambling market in all of Europe. Regulations in this vast industry are, continuously, changed on a regular basis to deter illegal behavior. Sports betting has a long history in this nation, having its origins in the wagering of rooster battles and horse races in the early days. Today's top games include Formula 1, tennis, football (European football), horse racing, and football, all of which are available on OddsMatrix. In recent years, the most played video games include tennis, Formula 1, European football (soccer), horse racing, and football (all covered by OddsMatrix).

Gambling is legal and rigorously regulated in the UK and the Gambling Commission of Great Britain plays a pivotal role in overseeing various forms of gambling, including online gambling, sports betting, casino gaming, and lotteries.³⁸ The Commission ensures operators adhere to standards of fairness, integrity, and transparency, with the authority to investigate, enforce regulations, and address concerns related to problem gambling and remote gambling operators must obtain a license to legally offer services to UK residents, regardless of their physical location. The Gambling Act 2005 (GA)³⁹ serves as the cornerstone of UK gambling regulations, encompassing a wide array of activities and products. These include arcades, bettings, bingo, casinos, lotteries, gaming machines, and gambling software and the regulatory scope extends to

³⁷ Oraz Kereibayev, 'UK Gambling License: Laws and Regulations in 2024' (*Sumsuber*, 12 January 2024) <<https://sumsub.com/blog/gambling-in-the-uk-how-to-get-licensed/>> accessed 23 January 2024

³⁸ *Ibid*

³⁹ 'The Gambling Act 2005 – overview' (*Hinckley & Bosworth Borough Council*) <https://www.hinckley-bosworth.gov.uk/info/1134/gambling_premises_licence/449/the_gambling_act_2005_-_overview#:~:text=The%20Act%20introduced%20a%20new,on%20what%20is%20being%20licensed.> accessed 23 January 2024

both online and physical operations, reflecting the comprehensive approach to overseeing the industry.

In December 2023, the UK Gambling Commission took a significant stride in bolstering regulatory oversight by inaugurating a fresh service called 'Tell us something in confidence.'⁴⁰ This initiative enables individuals to confidentially disclose criminal and suspicious activities within the gambling industry, thereby reinforcing the commitment to upholding integrity and transparency. The service serves as a dedicated platform for reporting a spectrum of concerns, ranging from match-fixing and sports betting integrity issues to underage gambling and money laundering suspicions. Users can seamlessly leverage the service to anonymously submit relevant supporting materials, including photographs and documents, ensuring a comprehensive and secure reporting mechanism. The inclusion of alternative communication channels, such as email or post, further enhances the flexibility and robustness of this platform, offering individuals a secure space to voice concerns without apprehension. What is integral to maintaining regulatory compliance for all licensed operators in the UK is the adherence to the License Conditions and Codes of Practice (LCCP). These regulations necessitate that gambling companies diligently assess the risks associated with money laundering and terrorist financing within their operational framework. The potential repercussions for failing to meet these stipulations are severe, as the Gambling Commission holds the authority to revoke a company's license. Complying with the LCCP entails the establishment of comprehensive policies and procedures geared towards preventing illegal activities. This not only ensures adherence to regulatory standards but also underscores a proactive commitment to safeguarding the integrity and legality of the gambling industry. The regulatory framework is dynamic, adapting to the evolving landscape of the gambling industry with continued efforts focused on technological advancements, player protection, and addressing emerging challenges. As the UK navigates the ever-changing terrain of gambling, its commitment to a robust and responsive regulatory

⁴⁰ 'Tell us something in confidence' (*Gambling Commission, 2023*)

<<https://www.gamblingcommission.gov.uk/contact-us/page/tell-us-something-in-confidence>> accessed 23 January 2024

framework remains principal, ensuring a secure and enjoyable environment for both operators and consumers.

CURRENT JURISPRUDENCE IN FRANCE

France stands out as one of the leading nations globally in the realm of legal sports betting, fostering a vibrant environment where enthusiasts better engage in sports and esports wagering, provided they opt for a provider licensed by French regulators. The country, holding the position of the second most prolific market in Europe, demonstrated its robust betting industry by generating a substantial revenue of \$4.6 billion in 2021,⁴¹ as reported by GlobalData. At the heart of this regulatory framework is the creation of the National Gambling Authority (ANJ) through Ordinance No. 2019-1015 in October 2019 which marked a significant shift in the regulatory landscape of France's gambling industry. The ANJ⁴² not only inherited the powers of its predecessor, the Online Gambling Regulation Authority *Autorité de régulation des Jeux en ligne/ (ARJEL)*, but was also endowed with expanded authority. The ANJ's purview now extends to operators with exclusive rights, such as *La Française des Jeux (FDJ)* and *Pari Mutuel Urbain (PMU)*. These operators annually submit their gaming programs, promotional strategies, and action plans for combating issues like excessive gambling and underage participation, as well as addressing concerns related to fraud, money laundering, and terrorist financing, for ANJ's approval.

In a move to bolster regulatory control, the ANJ has been granted the power to direct internet service providers to block access to illegal gambling sites and their advertisements. This administrative blocking procedure, introduced in March 2022⁴³, replaces the previous judicial

⁴¹ 'Countries Where Sports Betting Is Legal: A Reliable Guide to Sports Betting around the World' (*Oddsatrix*, 17 January 2023) <<https://oddsatrix.com/sports-betting-countries/>> accessed 23 January 2024

⁴² Alexandre Vuchot and Joly C-R, 'A General Introduction to Gambling Law in France' (*Lexology*, 11 May 2022) <<https://www.lexology.com/library/detail.aspx?g=257f0e87-77a3-46b4-b663-af1eb6674c85>> accessed 23 January 2024

⁴³ 'Illegal Online Gambling: The France National Gambling Authority Publishes a Study That Measures the Illegal Gambling Marketing and Consumption Practices' *PGRI Public Gaming* (09 December 2023) <<https://www.publicgaming.com/news-categories/regulatory-issues/12101-illegal-online-gambling-the-anj-publishes-a-study-to-measure-the-illegal-offer-available-in-france-and-better-understand-consumption-practices>> accessed 24 January 2024

process as previously any efforts to block access to illegal gambling sites were subject to judicial review. This typically involved a series of legal steps, including obtaining a court order, which could be a time-consuming and resource-intensive process, providing the ANJ currently with a more efficient means of curbing illicit online gambling activities. It operates as an independent administrative authority and the shift to the administrative blocking procedure, as introduced in March 2022, represents a regulatory evolution aimed at providing the ANJ with a more streamlined and efficient mechanism to combat illicit online gambling activities. This administrative approach allows the ANJ to take quicker action in blocking access to illegal gambling sites, enhancing the overall effectiveness of regulatory efforts in this domain.

France's gambling laws thus operate on a general prohibition principle, with exceptions carved out through successive legislation. Laws and regulations have defined the conditions under which Française des Jeux (FDJ) mainly lays down specific rules for lottery games or sports betting and Pari Mutuel Urbain (PMU)⁴⁴ offers the same for horse racing and other kinds of gambling activities. Sports betting has been allowed in France since 1985, initially under a monopoly granted to FDJ and despite the continued existence of this monopoly, its scope now exclusively covers land-based sports betting following the implementation of the Online Gambling Law, signifying a refined regulatory approach to this form of gambling.

The National Gambling Authority (ANJ) in France has clear and progressive objectives centered around ensuring a responsible and fair gambling environment. Firstly, it aims to prevent excessive gambling and protect minors.⁴⁵ Secondly, it strives to maintain the integrity, reliability, and transparency of gaming operations. Thirdly, the ANJ is committed to preventing fraudulent and criminal activities, along with addressing concerns related to money laundering and terrorism financing. Lastly, it seeks to facilitate the balanced and fair development of various types of games, preventing any economic destabilization in the relevant sectors. These missions align with the broader State policy on gambling, as outlined in Article L. 320-3 of the Internal Security Code.⁴⁶ The overarching goal is to limit and control the offering and consumption of

⁴⁴ Vuchot (n 42)

⁴⁵ 'ANJ, The National Gambling Authority' (ANJ) <<https://anj.fr/english>> accessed 23 January 2024

⁴⁶ Code de La Sécurité Intérieure - Légifrance, art L320-3

gambling, ensuring responsible play, integrity, transparency, and preventing criminal activities. This holistic approach reflects France's commitment to advancing a progressive and socially responsible gambling and betting system.

THE WAY FORWARD FOR INDIA?

The Case for Legalizing Gambling in India: Legalizing gambling has the potential to bring about multifaceted benefits to a nation.⁴⁷ Not only can it sever the ties to illicit black money sources, but it also holds the promise of contributing substantially to the state exchequer. The unaccounted funds associated with gambling often fall into the hands of criminal syndicates, funding activities such as terror financing. By bringing gambling under legal scrutiny, authorities can effectively dismantle such channels, ensuring that the generated revenue is directed towards more constructive purposes. In a diverse and expansive country like India, the legalization and robust regulation of the gambling sector could become a catalyst for widespread employment opportunities. The establishment of a legal framework for gambling not only ensures transparency but also serves as a deterrent to nefarious activities, particularly in the realm of sports betting. Cricket, a sport of immense popularity in India, often sees significant illegal betting activities leading to match-fixing, as noted above. If betting were to receive legal sanction, it could usher in a new era of transparency and accountability. Legalization would not only dissuade players and bookies from engaging in match-fixing but would also instill a genuine fear of consequences, thereby safeguarding the integrity of the sport. The funds generated from legalized betting could then be redirected towards socially beneficial schemes, contributing positively to the overall welfare of society.

Learnings from the UK and France for Legalizing Gambling in India: India should draw inspiration, take valuable takeaways from countries like the United Kingdom and France after careful evaluation, planning, and execution that would be required to make sure the adopted features are functional, and fit with the Indian context of legalizing gambling and sports betting. Adopting a model akin to the UK Gambling Commission's 'Tell us something in confidence'

⁴⁷ Brad R. Humphreys, 'Online Sports Betting and International Relations' (2011) 31(1) The SAIS Review of International Affairs <<https://www.jstor.org/stable/27000240?seq=4>> accessed 23 January 2024

initiative could prove transformative as in the Indian context it would focus on nurturing a culture that encourages reporting without fear of reprisal, incorporating a comprehensive reporting mechanism that accepts diverse forms of evidence, and addressing a broad spectrum of concerns, including match-fixing, underage gambling, and money laundering. The drawbacks from this could be the fear of higher authorities and corruption for which India will have to have stringent rules and regulations as in how the UK has potential repercussions where the gambling commission holds the authority to revoke a company's license for non-compliance with its laws and thus prevent any kind of illegal gambling and betting activities.

Drawing lessons from the regulatory framework in France, where the Online Gambling Regulation Authority (ANJ) oversees even operators with exclusive rights, India, under the Ministry of Electronics and Information Technology (MeitY),⁴⁸ has also started moving towards responsible regulation. While ANJ evaluates gaming programs and strategies submitted by exclusive operators, in India, MeitY introduced the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, in 2021 where the rules aimed to enhance user safety and support the online gaming industry through light-touch regulations. However, a crucial gap lies in the absence of notified self-regulatory bodies (SRBs) proposed by the rules where the lack of comprehensive oversight has left the gaming industry vulnerable to various threats, with illegal betting and gambling platforms posing as legitimate ones due to the absence of SRBs. India can benefit from France's approach by addressing this lacuna promptly, ensuring effective regulation, and safeguarding the gaming industry and its users, where there is submission of the gaming plans by these operators annually to prevent excessive gambling and underage participation, as well as addressing concerns related to fraud, money laundering, and terrorist financing such as done in the country of France.

⁴⁸ Avik Sarkar, 'Notification of online gaming regulatory body is in public interest to enable safe online gaming experience for Indians' *Financial Express* (30 November 2023) <<https://www.financialexpress.com/business/brandwagon-notification-of-online-gaming-regulatory-body-is-in-public-interest-to-enable-safe-online-gaming-experience-for-indians-3321535/>> accessed 23 January 2024

CONCLUSION

In conclusion, crafting and regularly updating a judicious set of regulations and laws is imperative for India's progression in preventing illicit activities and successfully navigating the path toward the legalization of gambling and sports activities. A dynamic regulatory framework, adaptable to changing times, serves as a cornerstone for fostering transparency, integrity, and accountability within these industries. By learning from global models, like those in the UK and France, India can tailor its regulatory approach to address contemporary challenges. As India moves forward, a well-structured and evolving legal framework will be instrumental in striking the right balance between industry growth and regulatory control.