

GAMBLING IN INDIA- SHOULD BE LEGALISED OR NOT?

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Introduction

As defined in Merriam Webster dictionary Gambling means a game in which you can win or lose anything on a risk. Now highlight of this definition is risk, government had made gambling illegal because there is a lot of risk involved in it and gambling does not require a skill. But

It do contribute to a country's economy the biggest example we have here is the Atlantic City: Las Vegas and if you don't want to go too far than take the example of Indian states of Goa and Sikkim.

¹In the recent even government of Goa decided not to give licenses to new floating casinos on the Mandovi river, potentially foregoing millions of rupees in revenue for the exchequer. Goa currently earns up to Rs 100 crores in taxes per year from the gambling industry, and it accounts for 95 percent of all legal gambling in the country. Daman and Sikkim make up for the rest.

The public debate on casinos here inevitably takes a moral turn: a socially conservative population frowns on the idea of gambling and excess we have a taboo for gambling. But if we see the positive side of gambling there is no discussion about the economic efficacy of gambling and casinos. Even as India frustratingly hedges its bet on the free market, can a dose of casino market really hurt? Is that the question?

The Nobel laureate economist Paul Samuelson spelled out the central economic argument against gambling. "It involves simply sterile transfers of money or goods between individuals, creating no new money or goods," he said. "When pursued beyond the limits of recreation, where the main purpose after all is to kill time, gambling subtracts from the national income."

¹ Sambudha mitra mustaffi, Why India should legalize casinos, Economic Times (25th February 2014)
http://articles.economicstimes.indiatimes.com/2013-10-16/news/43107322_1_casinos-gambling-american-gaming-association

But proponents of gambling argue that the same logic can apply to movies or Disneyland. They also say that the infrastructure, tourism and jobs created around casinos benefit the resident community. Goa is prosperous state and so do the Las Vega, since it's true that the casino is all time winner, then people working for the casinos are winning too. Yes, they win much less than the casino owner, but then they get employment, house and food in return.

Gambling "transfers" wealth as Samuelson pointed out, then we should make casinos because in India there are many wealthy people and moreover the gap between the poor and the rich is increasing to build casinos in economically weak areas of the country , so rich brats can come and spend their money, benefiting the economy as whole. Isn't that a more sustainable, ideal redistributive measure than banning them? Nevada, Atlantic City and the American Indian lands of Minnesota were all economic poor that were converted into booming hubs by the American gambling industry.

According to an American Gaming Association report, the industry generated \$125 billion in direct and indirect revenues in 2010, almost 1 percent of the country's GDP. According to the report, 566 casinos in 22 states supported nearly 820,000 U.S. jobs.

Inspired by Singapore's two phenomenally successful casinos that opened in 2010, Asian countries like South Korea, Philippines and Sri Lanka moved fast towards legal gaming. Chinese capitalism is at its most flamboyant display in Macau, whose casinos attract millions of mainlanders, and have transformed the economic fortune of its residents.

Now regard to above statistics the author would like to present a table

**²Estimated State & Local Government Revenue From
Casinos**

\$ Millions

Nevada	\$556
New Jersey	\$296
Illinois	\$286
Louisiana	\$204
Mississippi	\$609
Missouri	\$130
Colorado	\$51
Iowa	\$46
South Dakota	\$4

But what prevents this in India, the highlighted social cost of gambling, which is difficult to measure: casinos allegedly promotes crime, prostitution, compulsive gambling behavior, family issues and alcoholism. All this sounds very similar to austere objections against bars and nightclubs and pubs. Yet when this puritanism is taken far, it leads to much greater social issues and corruption.

² Economic impact of gambling. Last visited on (25 February /2014)
<https://www.library.ca.gov/CRB/97/03/Chapt9.html>

Is backward and austere Peshawar really a safer place to live than Las Vegas, the city of "vices"? Gujarat's alcohol prohibition is among the biggest, open scams in India: politicians, policemen and bootleggers make millions of rupees every year in the black market, while consumers suffer. The basis for the mommy state's moral puritanism is a vile assumption of human behavior: that we cannot control our own bestial greed and libido, therefore the state must do that for us by banning alcohol and gambling. On the economic front, the mommy state stifles citizens' entrepreneurial and risk-taking abilities through moral objections. The state's sense of moral superiority then becomes the cloak for very immoral activities: the license raj and cronyism. But do banning casinos stop them to work, there are still thousand working in darkness of night.

Some of India's gaming laws have not been updated since the 1800's and despite having a Anti-gambling law there is no landmark case on gambling. Illegal betting on cricket runs into billions of dollars as seen latest in IPL scams; online betting with foreign agencies is extravagant; over the coming festive season millions across the country will be gaming at home with family and friends.

According to KPMG some \$60 billion was wagered in the country in 2010. That is about Rs 250,000 crores at 2010 exchange rates. Only one-fifth of that is spent in legal casinos today. Even more striking: Indians spent 2.5 percent of GDP in gambling, compared to only 1 percent by Americans. Macau's official statistics show that from 29,000 Indian visitors in 2006, the number increased to 150,000 in 2012. this clearly shows casino goers are increasing. Since Indian state cannot stop these casinos from working, it would be beneficial for the economy to legalize and tax it to boost economy.

Comparison of Gambling laws of India, South Africa and Switzerland

South Africa:-

Considering the constitution of the republic of South Africa 1996(Act no. 108, 1996) establishes that the casino's, racing, gambling and wagering are matter of concurrent national and provincial legislatures competence.

It is desirable of establishing certain uniform norms and standard, which will have a safe guard for people participation in gambling and their communities against the adverse effects of the gambling which is applying generally throughout the republic with regard to casinos, racing gambling wagering.³ So that;⁴

- gambling activities which are effectively regulated, licenses are provided to control polices;
- Members of the public which is participating in any licensed gambling activity are protected;
- The society and economy are protected against the over-stimulation of the latent demand for gambling; and
- The license of the gambling activities is fair and equitable.⁵

Effects the economy of South Africa

South Africa is the developing country in the world that can make a claim for having good information about gambling conduct. The information available indicates that the number of adults who gamble regularly has dropped from 86% in 2005 to 42% in 2008⁶. Overall, there were three most popular forms of gambling are casinos gambling, the lotto and scratch cards,

³ Casino Enterprises (Pty) Limited (Swaziland) v Gauteng Gambling Board and Others (28704/04) [2010] ZAGPPHC 89; 2010 (6) SA 38 (GNP); [2011] 1 All SA 305 (GNP) (16 August 2010).

⁴ National gambling act 7 of 2004 <http://www.casasa.org.za/National%20Gambling%20Act,%20Act%207%20of%202004.pdf> (last visited 14/02/2014 at 22:00)

⁵ Ibid.

⁶ Gambling review 2011 http://www.thedti.gov.za/news2011/Gambling_review.pdf (last visited 14/02/2014 at 22:00)

irrespective of race or income group⁷. It would appear that all levels of participation were correlative closely with their income. Persons with lower income groups are not having interest likely to gamble than the persons with higher income groups, with 71% of the lowest income cluster abstaining from gambling, while 58% and 65% in the two highest income clusters do not participate in gambling. A worrying trend is growing from significance of informal (and hence illegal) gambling in South Africa.⁸

The National Gambling Board ("NGB") is solely responsible for investigating and monitoring for the issue of the national licences by the provincial legislative; monitoring done by PGRA's with the help of the National Gambling Act, 2004 and then they were entering into agreements with them for correction of any deficiency. It is also having responsibility for establishing and maintaining a proper number of registrations and also having national central monitoring system with them. The NGB is also responsible to monitor the socio-economic impact of the gambling and the causes of addiction or problem of gambling, advising to the National Gambling Policy Council on their norms and standards, as well as for monitoring of competition in the industry.⁹

India

Black's Law Dictionary defines gambling or gaming as "the act of risking something of value for a chance to win prizes"¹⁰, wager is defined as "A promise to pay money or other consideration on the occurrence of an uncertain event."¹¹

Indian Gambling according to Black's Law Dictionary "Gambling conducted by a federally recognized Indian tribe and regulated by federal law".¹²

Indian gaming statutes have also drafted a similar definition of 'common gaming house.' The Public Gambling Act, 1867.¹³

⁷ Executive summary of the review of the south African gambling industry and institution
<http://www.pmg.org.za/files/doc/2012/120307summary-review.pdf> (last visited 15/02/2014 at 08:00)

⁸ Executive summary of the review of the south African gambling industry and institution
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⁹ http://www.thedti.gov.za/news2011/Gambling_review.pdf pg. no. 14 (last visited 15/02/2014 at 12:30)

¹⁰ Black's Law Dictionary 701 (2004).

¹¹ Black's Law Dictionary 1745 (

¹² Black's Law Dictionary 748

“Common gaming-house” means any house, walled enclosure or room or place in which cards or dice or tables or other instruments of gaming are kept or used for the profit or gain of the person owning or occupying or using or having such house or enclosure of room or place, whether by charging for the use of the instruments of gaming, or of the house or enclosure of or place or otherwise howsoever.”¹⁴

Section 12 of Public gaming Act 1867, Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.¹⁵ Thus an act of playing games where luck was no a determined part having the little value or no role play and the winner is entirely by the intellect and the skills would be permissible as there is no statue that can criminalizes the act and punishes such act of playing. The Indian Judiciary had concluded that while Prize competition and the competition where the winner is determined by the draw of lotteries are of a gambling it should not be afforded in the Indian constitution of article 19(1) (g), games and skills were afforded by the protection.¹⁶

Effects on the economy of India

In India Gambling is illegal so there was no perception of thinking about the GDP of country in which the money earned from gambling should be followed. The amount earned by the illegal gambler were putt it on the Swiss account so that they can safe there account and increase the GDP of Swiss not of the India. This black money was correspondingly increasing from gambling which had loss to the GDP of India. If we are watching on the GDP of South Africa and Australia there was a great increase on the GDP by the Tax payer of the casinos.

But in Goa which is a state of India having legal of gambling casino's which were getting a good amount of money to the GDP of the State.

¹³ The Public Gambling Act, 1867 is a Central legislation adopted by states such as Uttar Pradesh, Uttarakhand, Madhya Pradesh, Haryana, Manipur and Punjab with minor variations. Most state gaming acts are, however, modeled around this Act and the definition of “common gaming house” remains mostly uniform across India. It is, however, important to note that the states of Assam and Orissa are exceptions to this proposition. Both the Assam Game and Betting Act, 1970 and the Orissa Prevention of Gambling Act, 1955 have no exception for game of skill. Any game played for stakes whether of skill or chance is punishable in these two states.

¹⁴ The Public Gambling Act 1867, section 1

¹⁵ The Public Gaming Act 1867, section 12

¹⁶ State of Bombay v. R.M.D. Chamarbaugwala, AIR 1957 SC 699. See also M.J. Sivani v. State of Karnataka, (1995) 6 SCC 289; AIR 1995 SC 1770 (In the M.J. Sivani case, the Supreme Court confirmed the Chamarbaugwala judgment to the extent that freedom of trade and commerce is available to games of skill. The Supreme Court however clarified that reasonable restrictions or conditions may be imposed on video games based on chance and the constitutional protection under Art.19 (1) (g) does not apply to owners of video game parlours).

Switzerland

Article 106 of the Federal Constitution of Switzerland, the gambling market is divided into two distinct sectors or games of chance (including casinos) on the one hand and the lottery and betting sector for the other. Regarding these Acts, the Federal Act on Games of Chance and Casinos (GCA) was enacted in 1998 and created the possibility of licensed and legal gaming activities.¹⁷

“Gambling is generally defined as a specific type of gaming in which (a) the outcome is dependent on chance, (b) there are potential winnings in money or money's worth and (c) only those who wager a bet in money or money's worth are allowed to take part.”¹⁸

Casinos

The Casinos Act, overseeing the compliance of which is among the tasks incumbent on the Swiss Federal Gaming Board (SFGB), requires the gambling be offered only in licensed casinos. It differentiates between two different types of casino, grand casinos (license A) and spa casinos (license B), which differ in terms of the types of gambling that can be offered and the size of both the bets that can be wagered and the winnings.¹⁹ Swiss casinos are also bound to draft and implement a social concept that includes measures aimed at preventing gambling addiction.

Comparison of economy between India, South Africa and Switzerland

The gambling laws between India and South Africa having a difference about legality of both the laws which were had some effect to the both countries. That in South Africa the gambling Laws were applicable to the people who were playing Casino's, betting on the horse race and poker. South Africa having a great rose on the GDP by gambling in the State. Gross gambling revenues posted their largest annual increase over the past five years, with the bingo and gross gambling revenues rising by 86.0%, sports betting by 19.3% and casino gambling by 10.5%. Overall gross gambling revenues rose by 13.4% in 2012. By the huge rose of 13.4% in

¹⁷ Betting in Switzerland <http://www.frixo.com/sbook/regions/switzerland.asp> (last visited 19/02/2014 at 21:00)

¹⁸ Gambling and Gambling Addiction in Switzerland Kilian Künzi, Tobias Fritschi and Theres Egger <http://www.ejpd.admin.ch/content/dam/data/gesellschaft/lotterie/res-spielsucht-e.pdf> (Last visited 18/02/2014 at 18:00)

¹⁹ Ibid.

the revenue of the country can put a major effect to the society. In India gambling is illegal so all the amount of the Gambling which was played illegal and these amount were not included in the GDP and the owner of the illegal casino's get the whole profit. But if we were watching to the Goa which had some income to the state and which is improving the GDP of the state. In the scenario of Switzerland have been gaining huge profit from the gambling and casino. Switzerland having the quantifiable costs of the gambling is spread among the four levels of impact as follows: "Hardly any costs at all (1%) are incurred at federal level. The lion's share of the social costs of gambling (71%) is borne by society as a whole as a result of the loss to society of gambling debts. "The cantons and communes bear 18 percent of the social costs of gambling in the form of treatment costs, unemployment costs and litigation costs, while the remaining 10 percent of the quantifiable social costs is borne by Switzerland's sick funds and unemployment insurance."

CONCLUSION

²⁰According to this paper I am in support of legalizing casinos because it boost the economies of that are we have multiple example of Goa , Sikkim, Las Vegas ,New Jersey and many prosperous cities. Casinos not only boomed there economy but also gave employment to the unemployed. According to the government of South Africa The Casino Industry of South Africa (CASA) today released the results of their 2012 industry survey which indicate that casinos have contributed in excess of R50-billion to GDP in terms of economic multipliers.

During the past financial year, South Africa's 37 casinos paid more than R4.7-billion to government coffers through company tax, including R1.8-billion in provincial gambling taxes and VAT. They also invested over R80-million in communities through social investment programs and spent a further R10-million maintaining the internationally recognized National Responsible Gambling Programme (NRGP).this shows clearly opening casinos is not a bad idea at all similarly off shore casinos are running a huge profit in Goa also. So I think casinos should be allowed to operate with stricter laws governing them, which is the need of hour.

²⁰ Press release, Money web (25 February 2014)
<http://www.moneyweb.co.za/moneyweb-south-africa/casinos-contribute-in-excess-of-r50bn-to-gdp>