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“BETTING, MATCH FIXING AND ONLINE GAMBLING IN INDIA: A STUDY WITH SPECIAL REFERENCE TO CRICKET”

AUTHORED BY - ANKUR TAYA

ABSTRACT

The purpose of this research is to introduce the principles of sports betting, online gaming, match fixing, and other relevant topics. It introduces these principles and goes on to discuss what the law says about them and what could be done to solve the problem. The single statute relating to these offences, the Public Gambling Act of 1867, has become so archaic that it has to be repealed or amended to reflect current circumstances. The progress of technology has exacerbated the situation, as anybody can bet any sum of money on a match taking place in one country while seated in another, and receive the money through a hawala transaction in another country. When it is used to fund terrorism-related operations, this unaccounted money causes all sorts of problems around the world. The current study also looks into why people engage in such activities. A variety of reports from various commissions/committees are also discussed. Many scandals that have tarnished the sport have been examined, as well as the loopholes that allow wrongdoers to get away with it. Finally, findings and recommendations are given.

1. Introduction: Generalities of Gambling and Betting

The ban on sports betting does exactly what Prohibition did. It makes criminals rich.

-James Surowiecki

Man has always been captivated by gambling. History has been evident that man has always indulged in this past time and it has sometimes even led to his ruin.¹ In this paper, we would be discussing the concepts of sports betting, gambling and match-fixing. These terms are so close knit that they shouldn't be talked about giving any of these amiss.

¹ Paul M. Anderson, Ian S. Blackshaw *et.al.*, *Sports Betting: Law and Policy* ASSER International Sports Law Series 2012 p.443

1.1 Betting and Gambling

Betting and gambling are somewhat synonymous terms and are often used interchangeably. Although there is a great deal of similarity between the two, but there is a very thin line of difference between them. It is presumed that betting is a form of gambling. Generally betting involves two parties, for instance, two friends wager on the outcome of an election. Sports betting is a betting which involves wagering on outcome of sports result. Gambling, on other hand, is only for gaining money and material benefits and can involve more than two parties. There are three elements in it: the amount wagered, the risk and the prize.

Betting and gambling have been in use since the sports came into existence. Although at first, the sports meant only a leisure activity but with time the spectators got inclined towards the betting in sports. Betting and gambling have always been a part of human civilisation. Some consider it as old as mankind. The attitude towards the betting and gambling has always been changing with times and the geography. Mostly the rich class was involved in these kind of activities but these days due to the emergence of the internet, everyone has the opportunity to get indulged in sports betting.

1.2 Match Fixing

According to website Olympics.com:

Match fixing is when the result of a tournament or competition is partially or completely decided in advance and the match is played to ensure the pre-determined outcome. This is against the rules of the game and often the law. The most common reason for match-fixing is to obtain a payoff from gamblers, but teams may also intentionally perform poorly to gain a future advantage, such as a better draft pick or, on paper, a less eminent opponent in a play-off.²

Although a team may underperform but most of the times, it is because of the gamblers or bettors or bookies, a games' result is compromised. The bettors and gamblers change the course of the game in order to get unfair gains. There are many research works available on how they fix matches. Like, one study is by Declan Hill where he explains how gamblers fix matches.³ Sometimes, there is only one or two players from the whole

² Match fixing definition available at:

<https://olympics.com/ioc/integrity/prevention-competition-manipulation> accessed on 4/12/2021 at 4:56 pm.

³ Declan Hill, "How Gambling Corruptors Fix Football Matches", *European Sport Management Quarterly*, 9:4, 411-432,

team who, along-with the gamblers, con their own team mates and the large audience in front of them. One book on cricket match fixing by Chandramohan Puppala⁴ reveals a thrilling account of match fixing world.

1.3 The Inter-connectedness of these phenomena

The gamblers and bettors lure the players with cash and kind and the players in furtherance of gambler's intention con the whole sports fraternity and the audience. Once a sports bettor bets his money, afterwards, he does everything which can be done just to win his money back as the stakes are very high. Just to make their bet or gamble right, they change the course of the game by manipulating the game through the players or sometimes the referees/umpires are also lured. 'Justice Mudgal IPL Probe Committee' on match fixing scandals in IPL has aptly discussed how the outside influence in the game snatches the purity of the cricket from its spectators who think that they are watching a natural game of cricket. All of these phenomena are inextricably linked.

2. Historical Viewpoint

2.1 National Perspective

Gambling was a prominent hobby in ancient and colonial India, and it is still popular today.⁵ A hymn from Rig Veda (1700-1100 BC) gives the earliest evidence of gambling.⁶ And, there are various references in the Ramayana (1500 BC) and Mahabharata which shows that the betting was prevalent even in those times. The 11th century written Kathasaritasgar makes references to gambling. The popularity of gambling persisted from 8th to 18th century AD.⁷ If gambling cannot be stopped, it should be regulated, according to Katyana Smriti. The king should tax these activities in order to create revenue. However, Manu Smriti takes a contrary stance, claiming that gambling and betting destroy kingdoms and countries and that they should be subjected to constraints, and the king should try to suppress them. Gambling was called 'satta' in those times.

During the British rule, passion for gambling among the Indians persisted.⁸ Betting on

⁴ Chandramohan Puppala, "No Ball: The Murky World of Match Fixing" Pan Macmillan India 2019; The authors vast experience in writing on organised crime and the in depth stories on parallel economy and the underbelly of Mafia in cricket has earned him several accolades.

⁵ Sanju George, Richard Velleman *et.al.* "Gambling in India: Present, Past and Future" Asian Journal of Psychiatry

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

opium, gold and cotton prices was common among people in India. It was during British rule that the gambling activities were regulated with the enactment of the Public Gambling Act 1867. Since then it is the only law which regulates gambling in India. The chief aim of this act was to demotivate games of pure chance and also most forms of gambling. Currently, the centre has devolved powers to individual states to deem what types of gambling are legal and vice-versa.

It is said about India that cricket is followed like a religion and the players like Sachin are considered God. The game has a very glorious history. But the last two decades have seen dark clouds and raised eyebrows on the cricket worldwide. This is because of the reason that the game has been rattled with the fixing scandals, murders, irregularities etc. With the emergence of the cash rich Indian Premier League (IPL) in 2008, the flow of unaccounted cash and many irregularities which have been unanswered have left the cricket fraternity come under the scanner of many law enforcement agencies.⁹

2.2 International Perspective

If one looks at the archaeological survey reports, even the cavemen indulged in betting. The first mention of dice is found in Sophocles's writing dated 500 BC. In ancient China, tiles depicted some rudimentary games of chance.¹⁰ In China, around 200 BC, gambling houses were allowed with the permission of province Governor and these houses paid some part of their profit for public works. Also, most scholars believe that the first playing cards appeared in China during 9th century. However, Egyptians make the first claim to have discovered the ancient dice. The Greek and Roman pottery depicts that the betting on animal fights were common. Even the Harvard and Yale were established using the lottery funds.

The first gambling houses were reported to have been in Italy during the 17th century in Venice. Straight from the Italy, the casinos started to flourish in Europe in 19th century. Furthermore, with the popularity of the games like football, cricket, volleyball etc the gamblers and bettors also gave rise to the concept of match fixing and introduced unfair practices in game. There are various accounts of how these gamblers lure the players which have been discussed further in the paper.

⁹ Law Commission of India, Legal Framework: Gambling and Sports Betting Including in Cricket in India Report no.276 July, 2018 available at:

<https://lawcommissionofindia.nic.in/reports/Report276.pdf> accessed on 28/09/2021 at 11:36 pm.

¹⁰ Ross Cormack, "A Brief History of Gambling", *medium.com* available at:

<https://medium.com/edgefund/a-brief-history-of-gambling-a7f46dbf4403> accessed on 2/12/2021 at 1:02 pm.

3. Technological Advancement vis-à-vis Sports Betting and Gambling

The growth of technology has resulted in both benefits and drawbacks. The advent of the internet has created a wealth of business prospects, as well as potential for online betting and gambling. It has made it even more difficult in nations where betting is illegal, such as India. Law enforcement organisations were already worried about the betting market, which existed even before the internet was invented and the internet has further added fuel to the fire.¹¹ In India, simply google 'online betting' and a plethora of websites would appear, leaving one unsure which one to choose. People become addicted to gambling. This tendency has been proven in numerous psychological studies. One such report is by Luke Clark and his colleagues' "Pathological Choice: The Neuroscience of Gambling and Gambling Addiction"¹². It is the very nature of the betting/gambling that it lures the persons to go for it again and again. But, as the online betting industry has become so big because of the online platform, it has become very much necessary that this must be regulated. Moreover, it adds to unaccounted money in the market and further causes money laundering. This unaccounted money feeds terrorism and also plays havoc with the economy of the country.

People are becoming increasingly involved in online gaming these days. When compared to traditional ways, using the internet is much easier. The internet's accessibility has made it easy to use it from anywhere. Internet betting/gambling differs from traditional gambling in that the former is more appealing to both operators and customers. The Covid-19 crisis has boosted the number of internet gambling users even further. There are a variety of sports betting software applications accessible on the Android and Apple app stores. It is undeniable that the number of persons participating in internet betting has increased dramatically. The online gambling industry has widened so much that it is hiring "professional gamblers" to gamble online. Nazara, a mobile company, is planning to invest \$ 20 million on Indian e-sports.¹³ It is also estimated that the online gambling industry would be going upto \$1 billion by the end of 2021. There are a lot of factors which are responsible for the expeditious growth of this market like accessibility, privacy, equality, event frequency etc. the online gambling can be done from anywhere which has made it highly accessible. The privacy factor has further added the number

¹¹ Sakshi Anand "Internet Gambling in India: Regulation or Prohibition?" *Journal of Contemporary Issues of Law* V.4 Issue 9 P.-173-187 available at:

<https://jciil.lsyndicate.com/wp-content/uploads/2018/09/17.-Sakshi.pdf> accessed on 28/09/2021 at 11:45 pm.

¹² Luke Clark, Bruno Averbeck *et al.* "Pathological Choice: The Neuroscience of Gambling and Gambling Addiction" *Journal of Neuroscience* Vol.33 Issue 45.

¹³ Shalina Pillai, "Now, online gaming is a career for some", *Times of India* (May 7, 2018) available at: <https://timesofindia.indiatimes.com/india/now-online-gaming-is-a-career-forsome/articleshow/64056984.cms>

of online gamblers. There is one more factor that in online gambling everyone is treated equally and there is no scope of inequality. Although the online betting industry is booming and there is a lot of ambiguity in this market because of lack of a comprehensive law on it. It is high time that our legislature should introduce a bill to put a check on online sports betting. But on the other side of the story, it is difficult to put a blanket ban on all the activities related to the sports betting and sports fraud. Many government reports have suggested that the sports fraud and betting should be regulated instead of banning them. India is a welfare state and it is the duty of the state to protect its citizens from malpractices which affects them.

It is a matter of grave concern that even the big players like Virat Kohli, M.S. Dhoni, Rohit Sharma etc are promoting the online betting applications like Dream11 on television and social media. Not only they are promoting these gambling apps but also they are cleaning up the negative image of online gambling. There are many other apps like Parimatch, 4RABET, MELBET, 1WIN, betway etc which involves staking real money. The attachment of big celebrities with these online gaming platforms lures the youngsters to become part of the scenario and they unknowingly get addicted to these gaming platforms. These gaming platforms are nothing but a form of gambling which is done online.

‘The market for online gambling is proving to be beneficial both for the consumers as well as service providers as it provides a lot of opportunities and scope for development. But, corollary to this, it has given rise to many issues like problem gambling, criminal behaviour. Problem gambling is defined as ‘participation in gambling to the point where it causes serious harm to oneself and others.’¹⁴ Online gambling causes two types of problems: severe ones like depression, thoughts of suicide, debt, poverty, crime, divorce, and more moderate ones like chasing debts, guilt, concealment, depression, high expenditure.¹⁵ With the addiction of gambling, the criminal behaviour is also induced among the regular betters. This is caused because of the unemployment and the influence of ‘showbiz’ among youth. The race for making fast money can be won by the illegal sports betting and the game of cricket which is very popular in the country makes it easier for the youth to go for sports betting.

¹⁴ S. Ranade, S. Bailey *et.al.* “A Literature Review and Survey of Statistical Sources on Remote Gambling” Oct., 2006 available at:

<https://silo.tips/download/a-literature-review-and-survey-of-statistical-sources-on-remote-gambling> accessed on 29/09/2021 at 12:26 am.

¹⁵ *Ibid.*

4. Literature: Studies and Newspaper Reports

Gambling and crime are seen to have an integral relationship, with some gamblers resorting to unlawful activities to make up for financial deficiencies caused by their gambling.¹⁶ Although, it is not the only factor involved in inviting a criminal behaviour among the better/gamblers. The problem causes more income-generating crimes being committed as compared to violent crimes. The main reason behind getting involved in betting is unemployment, need of money, fast money-making etc. Like other vices, this vice also makes the better/gambler, who are mainly youth, go for betting relentlessly. It is like a deep and dense forest where if one enters, he gets more and more entangled into it.

Gambling and crime represent two common behaviours that occur, to varying degrees and in myriad forms, across most societies. Keeping gambling free from crime has also emerged to become an important policy objective in many jurisdictions, particularly where commercial gambling has proliferated.¹⁷ The organised crime groups ensure that they spread this vice in the youngsters also.

John Elster¹⁸ has written “Gambling and Addiction” and he has explained how gambling becomes an addiction. People who indulge in excessive betting lose self-control. Those indulged in the sports betting are the ones who are in need of the quick money. Since the birth of humans, vices have always attracted them. One of the main characteristic of the vices are that they are always addictive. Be it drinking, smoking, betting/gambling etc. The young are the most affected by this badness. What has happened in the Indian scenario is that the ban has further caused more damage to the economy, increased misdoings in games which has brought disrepute etc. the unaccounted cash funds those coffers which are used for immoral purposes mainly terrorism. It has made a parallel economy which is detrimental to the country’s economy. Almost 1500 crore rupees are bet upon a one-day international game. It also leads to creation of various alliances that will benefit from these unregulated illegal practices.¹⁹ Moreover, these illegal gambling activities creates a severe impact on the economy as the

¹⁶ A. Adolphne, L. Khatib *et.al.*, “Crime and Gambling Disorders: A Systematic Review”. *J Gambl Stud.* 2019 Jun;35(2):395-414 Available at:

<https://pubmed.ncbi.nlm.nih.gov/30039276/> accessed on 29/09/2021 at 12:08 am.

¹⁷ James Banks & Dan Waugh, “A Taxonomy of Gambling-Related Crime”, *International Gambling Studies*, 19:2, 339-357 available at:

<https://www.tandfonline.com/doi/abs/10.1080/14459795.2018.1554084?journalCode=rigs20> accessed on 5/10/2021 at 12:37 pm.

¹⁸ John Elster, “Gambling and addiction”, *High culture: Reflections on addiction and modernity*, p.322.

¹⁹ *Supra* note 13.

profits generated from these are unaccountable and also goes unnoticeable because of which, they don't come within the ambit of taxation which leads to increase in dissemination of the black money in market. In precise, such illegal activities would damage the economy of our country; hence there is a need for regulation.²⁰

If one sees the players who are involved in the match/spot fixing, generally the youngsters are targeted. In one scenario, the Mumbai Police arrested 2 bookies related to IPL 2013 fixing scandal, the revelations made by them were eye opening. It was published in India Today newspaper, they revealed that the players who are in game are basically young players who are in their prime of youth and are very much attracted to the already established stars who come in big cars and have very lavish lifestyle.

According to the bookie,

Today everyone needs money...commission 2 per cent can be Rs 3-4 crores...from spot boys to drivers to hotel staff, anyone can be lured. In the Chennai vs Pune match, the driver was the conduit. He made Rs 2.5 crores.²¹

And when the bookie was questioned how to lure players, his reply was:

Money, women. The first time a cricketer takes money, he is hooked. He can't get out of it. Because we have that on him. If he says no, we listen once or twice, but then he comes back, introduces us to others. The money is too large. Also women. For our safety all bookies have recordings of cricketers with women. Only 10 per cent of all cricketers say no.²²

Girlfriends, brothers, they convince them. Matches are also fixed. Spots are not as big business as it is being made out to be.²³

So, this is how a player is made to enter into a gambling/betting/fixing world which is very closely related to the underworld. The attraction and eagerness which money and women bring in the young players' mind is unmatched. Once a player enters into these deep waters, it becomes very hard to come back to the shore.

²⁰ *Ibid.*

²¹ Gayatri Jayaraman, "A Bookie Tells His Secrets: Only 10 Per Cent Of Cricketers Say No To Fixing" *indiatoday.in* May 30th, 2013 available at: <https://www.indiatoday.in/india/west/story/ipl-spot-fixing-how-the-bookie-tells-it-165024-2013-05-30> accessed on 29/09/2021 at 1:30 pm.

²² *Ibid.*

²³ *Ibid.*

5. Indian Law on Gambling

5.1 Committees and Report

5.1.1 Mudgal Committee

Mr. Mukul Mudgal was a former judge of High Court and the committee comprised of Additional Solicitor General, a Senior Advocate and a former cricket umpire. It was formed to conduct an enquiry into allegations of match fixing in the game. The committee found out that a large number of people associated with IPL had indulged in bets and match fixing. There is contravention of the operational rules of IPL which has brought disrepute to the game.²⁴ The main point made by the committee was that the investigative agencies lack the tool to nab the wrongdoers. Moreover, it added that the Anti-corruption unit of BCCI must also share intelligence with other law enforcement agencies. The legalising of betting would help regulating the black money. The committee made the some of the following recommendations:

1. The BCCI (Board of Cricket for Control in India) do not have stringent law to punish the culprit of sports fraud.
2. The IPL governing body should be separate from the BCCI.
3. The players should not be simultaneously in the franchise group companies. Nor should they have stocks in those companies.
4. There should be a separate investigative agency in the courts to deal with betting and fixing.
5. Post-match parties of the IPL should not include unnecessary elements.
6. The law to combat issues like match fixing should be stern.
7. BCCI should maintain a list of undesirable persons and players should be away from them.
8. Senior players like Rahul Dravid, Sachin Tendulkar etc should advise young players on the outcomes of indulging in malpractices like betting and match fixing.
9. The law enforcement agencies have emphasised that the betting should be legalised like in countries like United Kingdom.

5.1.2 Lodha Committee

The apex court in **Board of Control for Cricket in India v. Cricket Association of**

²⁴ 276th Law Commission Report

Bihar & Ors.²⁵ constituted a committee under the leadership of former Chief Justice Mr. Justice R.M. Lodha to examine and make suitable recommendations for reforms in practices and procedures and necessary amendments in the Memorandum of Association and Rules & Regulations of the Board of Cricket Control in India. In its Report, the Committee distinguished between match/spot fixing - which compromises the integrity of the game by attempting to change the course of the match, with betting. It emphasised the need for separate treatment, i.e. punishing match fixing and regulating betting.²⁶ The report wanted the government to legalise betting and regulate it as it is almost impossible to cure this problem. If the betting is regulated by the government then it would boost the economy and the bettors would be brought under the scanner of income tax. The committee recommended:

1. The sports betting should be legalised.
2. The match/spot fixing should be made a criminal offence.
3. A regulatory framework should be made that would differentiate between betting and fixing.
4. Monitoring of betting houses should be done by regulatory watchdogs.
5. The players and administrators should be required to furnish the details of income and assets.
6. Betting licenses should be given with regulations like age factors, identifications details etc.
7. Strict punishment should be given to those breaking the licensing norms.

5.1.2 276th Law Commission Report

The reference to the Law Commission by the Supreme Court was made in **Board of Control for Cricket in India v. Cricket Association of Bihar & Ors.**²⁷ This report made recommendations for regulating betting and gambling. It was in aftermath of the Lodha Committee and the Mudgal Committee, the law commission decided to study the needs of legalising betting and gambling. The commission took gambling and betting as two sides of the same coin. Although the issue of legalising gambling was not referred by the Supreme Court, the commission decided to study it.

²⁵ (2014) 7 SCC 383

²⁶ 276th Law Commission Report

²⁷ *Supra* note 29

5.2 Related Law point

The state of Karnataka did an amendment to The Karnataka Police Act, under which it clamps down on gambling and it also includes online gaming/gambling. It has made gambling a cognisable offence and non-bailable. The historic step has been taken to nab the internet industry which is badly affecting the economy. The internet gaming is said to have formed a parallel economy which is running without any restrictions and causing damage to the Indian economy. The Karnataka legislature has passed a Bill to amend the Karnataka Police Act, 1963 in order to ban all forms of gambling in the state, including online gambling. The Karnataka Police (Amendment) Bill, 2021 was passed by the legislature despite a similar law, the Tamil Nadu Gambling and Police Laws (Amendment) Act, 2021 passed in February in Tamil Nadu being struck down by the Madras High Court this August as being ultra vires.²⁸ The main aim of this act is to curb menace of gambling through internet and mobile apps.

It has been mentioned in the statement of objects and reasons which is provided with the amendments to the police act, that the new law is needed to make gambling a cognisable and non-bailable offence other than gaming in public streets which is cognisable and bailable.²⁹ Moreover, it also “include the use of cyberspace including computer resources or any other communication device as defined in the Information Technology Act 2000 in the process of gaming to curb the menace of gaming through internet, mobile app”.³⁰ This act covers all forms of wagering or betting “in connection with any game of chance” with the exception of horse racing and lottery. Also, all forms of wagering or betting, including in the form of tokens valued in terms of money paid before or after issue of it, or electronic means and virtual currency, electronic transfer of funds in connection with any game of chance.³¹

In February 2021, the Tamil Nadu government also brought a law to impose a ban on betting which included online betting/gaming. But, this law was struck down by the Madras High Court in August as discussed above. This was because of the reason that the act had banned all the games including virtual chess which is not changed in its behaviour when played online or offline. There are some games in which the

²⁸ T.A. Johnson, “Explained: How has the Karnataka Police Act been modified to clamp down on gambling?” *The Indian Express* Sept. 28, 2021 available at: <https://indianexpress.com/article/explained/karnataka-online-gambling-police-act-7537988/> accessed on 2/12/2021 at 4:11 pm.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

characteristics of the game remains the same even if they are played in a digital platform. Along with the ordinance released by the Tamil Nadu government, it also explained the rationale behind the promulgation. They expounded that innocent people have been cheated by online gaming providers and committed suicide due to online gaming. Now, coming to the main reason as to why the bookies and the sportspersons are breaking the rules framed by the governing councils and the other cricket associations? It is that these rules are not stringent. These laws have various loopholes which allows these miscreants to break them. There is much to be improved in the existing laws to curb the menace of sports fraud and curtail the offence of sports betting. The reason to curb this menace is that it causes the flow of unregulated cash in the legal economy and it further causes a lot of loss to the economy of a country. Various journalists and intellectuals have claimed that it is this unregulated cash which is earned through gambling/sports betting further sponsors terrorism and other illegal activities.

According to business-standard.com,

A senior official of the ICC's anti-corruption unit feels that making match-fixing a criminal offence in India will be the "single-most-effective thing" in a country where the police are "operating with one hand tied behind their back" in the absence of any stringent law.³²

Many legal experts have also advocated that there should be a ban on match fixing in India. The law enforcement agencies do not have much to do when they apprehend a wrongdoer in cricket. The co-ordinator of Anti-Corruption Unit Steve Richardson has rightly defined the situation under which the Indian Police acts, according to him,

At the moment with no legislation in place, we have good relations with Indian police, but they are operating with one hand tied behind their back. We will do everything we can to disrupt the corruptors. And we do, we make life very, very difficult for them as far and as much as we can to stop them from operating freely. But the legislation would be a game-changer in India. We have currently just under 50 investigations. The majority of those have links back to corruptors in India. So, it would be the single-most-effective thing to happen in terms of protecting sport if India introduces match-fixing

³² Press Trust of India, "Criminalising Match-Fixing in India Will be a Game-Changer: ICC Official" *business-standard.com* available at: https://www.business-standard.com/article/sports/criminalising-match-fixing-in-india-will-be-a-game-changer-icc-official-120062500277_1.html accessed on 12/11/2021 at 2:12 am.

legislation.³³

The statement of the ICC co-ordinator aptly explains the situation of the match fixing scenario in the Indian cricket. There is a big room for improvement in the cricket. The dust is to be removed. There is no Indian law which bans the menace of match-fixing. It is the need of the hour that our country should have a law to cure this problem. The match/spot fixing should be made a distinct crime. One of the drawback is that the Section 7³⁴ of Prevention of Corruption Act, 1988 punishes a public servant who accepts any gratification other than legal gratification to do any disfavoured to any person. However, the players of BCCI do not come under the definition of the public servants as it is a private body which also don't come under the purview of the Right to Information Act. Indian Penal Code also provides for 'cheating' under Section 415 but it can't be proved in cases related to match fixing. Therefore, it would not be wrong to say that India has any proper law point on this subject.³⁵

Sri Lanka became the first South-Asian country to ban match fixing. It specifically criminalised match fixing and its related offences. In 2019, the Sri Lankan parliament passed Prevention of Offences Relating to Sports Act, 2019 (PORS) to strengthen national and international cooperation among various sports organisations. The act criminalises betting and gambling activities which corrupt a sport or sporting event, underperforming in a sporting event, using inside information for betting, altercation of the course or result of a sporting tournament, preparing a surface agreeable to a bookmaker etc.

The Prevention of Sporting Fraud Bill, 2013 was introduced by the Ministry of Youth Affairs and Sports in 2013. The bill aims to criminalise anyone who commits a sports fraud whether he be a participant in sport or an external influencer. Sporting fraud means manipulating sports results, wilfully underperforming, disclosing inside information and failure to provide information in relation to it etc. However, the bill was never introduced

³³ *Ibid.*

³⁴ Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavoured to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than [three years] but which may extend to [seven years] and shall also be liable to fine.

³⁵ Manasvita Tejsi, "Betting, Match and Spot Fixing in India: A Legal Analysis" *racolblegal.com* July 24th, 2020 available at:

http://racolblegal.com/betting-match-and-spot-fixing-in-india-a-legal-analysis/#_ftn4 accessed on 11/11/2021 at 1:36 pm.

in any of the houses of the parliament and was eventually shelved.

National Sports Ethics Commission Bill, 2016 was introduced in the Lok Sabha by Member of Parliament Anurag Thakur as a private member bill. The bill included formation of sports ethics committee in every sports federation, monitoring and detection of unethical practices in sports etc. The chief point to be noticed in the bill was the establishment of national commission for violation of adjudication of sports ethics violations and providing the powers of civil court to the commission. The bill specifically defined 'match fixing'. Also, anybody found involved in match fixing would be banned from participating in the game in the future. The punishment was rigorous imprisonment for a minimum of ten years or fine equal to ten times of the amount involved in match fixing with a minimum of ten lakhs. The bill still remains to be debated in the parliament and is waiting for consideration.

6. Betting Scandals in Cricket

Cricket, which is followed like a religion in India and has a very huge fan base in the country has not been spared by sports bettors. The betting and fixing in cricket is said to have been started in the international scenario in after 1990s. The cricketing world got a shocker when they came to know that the players who were like God to their fans have turned out to be involved in the fixing and betting. The world was seeing the cricket being in disrepute.

In India, the betting and gambling comes under the state list. The states are, therefore, free to take their own decisions with regards to the regulation of the bill. It is in the best interest of the country that the gambling be brought under the centre list. Only the state of Sikkim and Goa have regulated betting. Now a days, people have started making a lot of money by putting cash bets upon illegal betting and gambling activities in India. This further causes crime, corruption and money laundering. But, like every matter, gambling also has supporters and opponents. Some argue that legalising the gambling process can give huge revenues to government. On the other hand, it is considered as a vicious activity. The scandal involving spot fixing and match fixing in Indian Premier League (a cricket league) which is very popular globally, shook the whole nation especially the fans of the cricket. These type of incidents demotivate the fans and the youngsters aspiring to follow the game. Some scandals:

1. Indian Premier League Scandal:

The IPL brings with it a lot of cash and the youngsters get attracted to a 'superstar' like life. According to a website sportster.com, it wrote about IPL:

Cricket is no stranger to controversy, but the Indian Premier League was still shocked by the 2013 spot fixing scandal involving the Rajasthan Royals. [According to ESPN](#), three Royal players, Sreesanth, Ajit Chandila, and Ankeet Chavan were arrested for spot fixing along with 23 others by Delhi police. The trio was believed to be under the influence of gambling associates Dawood Ibrahim and Chhota Shakeel. Chavan and Sreesanth were eventually released along with others due to lack of evidence. Despite these links and contact with bookies, many avoided punishment due to lack of coordination between investigating authorities.³⁶

The players were paid cash to perform as per the bookie demands. In return, they would get a lot of gifts, cash, property etc. The Mumbai Police arrested these players under the Maharashtra Control of Organised Crime Act (MCOCA), 1999. But, the police failed to frame Sreesanth under this act as it lacked required evidence to nab him. Moreover, the disciplinary committee of BCCI imposed a life ban on Sreesanth. The apex court then reduced this life ban saying that the BCCI did not follow its own anti-corruption code.

The International Cricket Council's (ICC) Anti-corruption Unit has the duty to protect all the players under ICC to monitor them to stop them being in contact with the bookmakers.

2. Hansie Cronje Scandal:

Hansie Cronje, who was very celebrated cricket player not only in his country but worldwide. He was found to be in contact with the top bookie named Sanjay Chawla. The Delhi Police which was investigating the case released his conversation with the top cricketer. In this investigation by the Delhi Police, several other cricketers including Indian cricketers were also pinched. The bettors first lure the players and once the player does as per the bookie, it becomes impossible for the players to refuse the former's demand. Cronje, too, confessed about his role in match fixing.

3. Pakistan Cricket Spot Fixing:

In 2010, the cricket world was shocked to find that the Pakistani National Team had

³⁶ TS Staff, "Top 15 Biggest Match Fixing Scandals of All Time" *thesportster.com* March 18th, 2015 available at: <https://www.thesportster.com/entertainment/top-15-biggest-match-fixing-scandals-of-all-time/> accessed on 3/10/2021 at 11:39 am.

been spot fixing specific events in a test cricket match for the benefit of betters. Mazhar Majeed, an agent and bookmaker, was at the centre of the scandal and recorded on video saying he could influence specific outcomes on certain balls. Mohammad Asif, Mohammad Amir, and Salman Butt were all found guilty of being involved and landed lengthy bans from cricket in addition to jail terms. The story was uncovered thanks to some hidden camera work by News of the World.³⁷

4. Saleem Malik Match Fixing Scandal:

Justice Qayyum of Pakistan was given the responsibility to check match fixing involving Pakistani players. He found Saleem Malik guilty of taking bribery to underperform in various fixtures. He was the first ever cricketer to be given a lifetime ban in 2000. Although his sentence was overturned by a local Pakistani court. Moreover, he applied for various coaching positions in Pakistan Cricket Board (PCB) but everytime he was denied. This was because of the reason that Malik was seen in some meetings with some controversial people in London and he could not explain those meetings to PCB.

5. Mohammed Azharuddin Fixing Scandal:

Azharuddin was banned by the BCCI when he was found to be involved in the match fixing scandal. He was once a beloved of Indian cricket fans. When he captained India, he became the successful captain of India. In his first three matches in his career, he scored three back to back centuries. Hansie Cronje said Azharuddin introduced him to the bookies. During a Central Bureau Investigation (CBI) investigation, Azharuddin reportedly confessed to fixing matches in 1996, 1997 and 1999, but later denied being involved in any such activity in an interview. In November 2000, BCCI found Azharuddin guilty of match fixing and was banned for life by BCCI. The Andhra Pradesh High Court declared the life ban unsustainable and illegal in 2012. He started his political career by joining the Indian National Congress in 2009 and is currently a prominent political figure.³⁸

Although the Central Bureau of Investigation books the Indian players and started

³⁷ *Ibid.*

³⁸ Ayush Manjunath, "5 Match Fixing Scandals that Shocked the Cricketing World" kyrosports.com May 4th, 2020 available at: <https://www.kyrosports.com/5-match-fixing-scandals-that-shocked-the-cricketing-world/> accessed on 3/10/2021 at 12:41 pm.

their preliminary enquiry but they cannot go further as the Indian law nowhere punishes taking of money to fix matches. These players could only be fined under the rules of International Cricket Council. The Board of Cricket for Control in India banned three Indian players in this scandal. However, later on, the bans on these players were set aside by the courts in India as the BCCI did not follow its own rules while convicting the players. The main drawback of this investigation by the board is that they can't summon persons who are outside their purview i.e. who are not employed under the board.

In case of **Mohammed Azharuddin v The Board of Control for Cricket in India**³⁹, Justice G. Krishna held that,

The case was the best example of a player wriggling out of the serious allegations of match-fixing made against him because of the failure of the BCCI to take appropriate action as per procedure established by law. Moreover, sports governing bodies do not have the jurisdiction or power to penalise members of the external network in a match manipulation transaction, such as intermediaries, bookmakers, punters and syndicate operators.⁴⁰

The enforcement mechanism which is used to nab the action of match fixing could not do it because it lacks the proper law point to do so. Until, the match fixing is made a criminal offence in India nothing can be done.

6. Manoj Prabhakar Fixing Scandal:

When Manoj Prabhakar was introduced to the international cricket, he was the most promising all-rounder which Indian cricket team was lacking. According to a report by kyrosports.com,

In May of 2000, Manoj Prabhakar alleged that Kapil Dev had offered him INR 25 Lakhs to underperform during an ODI tournament in Sri Lanka. Additionally, the then BCCI President revealed that Prabhakar had intimated him that a great all-rounder had tried to bribe him. There was a

³⁹ 2003 (3) ALD 873

⁴⁰ The Sports Law and Policy Centre and Vidhi Centre for Legal Policy, "Fixing: Tackling Match Manipulation" available at <https://drive.google.com/file/d/1IOuHlkQcfaSXRJssm5eYEbe4HWX5U1Wv/view> accessed on 8/10/2021 at 3:51 pm.

shock through the cricketing fraternity. The charges were vehemently denied and Prabhakar could not furnish any proof. Prabhakar requested fast bowler Prashant Vaidya to corroborate his story but he was not too keen to get involved. Then, Prabhakar teamed up with sting operation specialists, Tehelka.com to produce tapes of his conversations with cricketers. He went around with hidden cameras and the tapes were later publicised and later released in form of a book named “Fallen Heroes”.⁴¹

These kind of cases bring disrepute to the game and also demotivate the youngsters who want to follow a career in cricket. There have been many attempts by the legislature to curb this menace but all the attempts have failed.

7. Karnataka Premier League:

The Bengaluru Central Crime Branch is currently investigating into the spot-fixing done in the domestic league. Players and the bookmakers have been booked under the Section 420 of Indian Penal Code. However, this action would also go in vain as the ingredients of cheating can't be completed because it is very difficult in sports to explain how a player underperformed. Thus, the wrongdoers can only be punished under the laws of the governing body of the tournament. This would render the proceedings into a civil action under which only fine and minor punishment can be given.

7. Conclusions and Suggestions

Sports competitions are “a mutual test of prowess and a search for excellence that can only be achieved through competition.” And if this search for excellence is lost, the whole entertainment and adrenaline rush which sports provide gets lost. Cricket is followed like religion in India and the Indian cricket has gone through a lot which has left the gentlemen's game in disrepute. The fans of the game put their trust and hope in the game. If any kind of dishonesty is there with regards to this game, then it should be met with serious consequences. But, the ground reality is that the game has been wounded because of the actions of wrongdoers who harm the game by indulging in match/spot fixing, online gaming/gambling etc. The match fixer, bookmakers, illegal betting syndicates etc go scot free as our country does not have stringent laws on it.

⁴¹ *Supra* note 41

Laws are for the betterment of the country and its citizens. However, it is a matter of grave concern that our country still does not have any specific law on the sports betting, online gaming etc. Although, there are a few exceptions as some Members of Parliament have introduced the bills related to the sports law but none of them have been even debated in the House of People. These include the likes of Mr. Shashi Tharoor and Mr. Anurag Thakur. Shashi Tharoor, Member of Parliament from Thiruvananthapuram moved a private bill- the Sports (Online Gaming and Prevention of Fraud) Bill. The bill aims at regulating the online sports betting and gaming. According to a report by The Economic Times, Tharoor moved the sports bill seeking a regulatory mechanism for the online gaming sector in the country which is largely unorganised as the industry has seen the entry of many new players in the last two years.

According to Tharoor,

“The main purpose of my bill is to preserve the integrity of sports. The bill is primarily divided into two parts for this purpose. One part recognises the offence of sports fraud and prescribes a special procedure to deal with it. The other part acknowledges the fact that the increasing commercial nature of sports increases financial incentives for vested interests to manipulate sporting events, therefore it provides for the regulation of online sports betting activities.”

Match fixing and sports betting are interconnected aspects of the game. Both aspects work with hands in gloves with each other. Like, in a match between team ‘A’ and team ‘B’, if stakes are put on the former team whether it be online or offline sports betting, then bookmakers manipulate the course of game by inducing the participants in sports so that they are always in win-win situation. Money attracts money, the bookmakers would do everything to reach up to the players and sometimes they attract them with wine, wealth and women and sometimes by forcing, intimidating them to do whatever they want them to do. The 276th Law Commission Report suggested that the betting be legalised so that, at least, some control can be put upon this menace in the game. To remove the dirt, the betting should be made legal as many countries have done. There is a large amount of money which gets involved in a cricket match outside the official remunerations. And, this large amount of money which is playing in hands of the betting syndicates, online gamers/gamblers lead to unaccountable black money which further leads to money laundering which would further lead to illegal works like funding terrorism related activities. One can take any fixing scandal and see that there are very large amounts of money involved in the bets. All of this money is unregulated which has been made through hawala transactions, tax evasions and through other illegal channels. This money causes

crimes, match fixing, money laundering etc.

It is the matter of grave concern that the betting was already in sports since time immemorial but a new menace has arrived which is flowing at a very high pace and it is 'online gaming'. There is a report by National Institution for Transforming India (NITI) Aayog on 'Fantasy Sports' drafted in December 2020. The report aims to make a national level regulation for fantasy sports which are played online in India. The increase in the online gaming participation is humongous and Covid-19 situation has further fuelled it. It suggests that a single regulatory body should be recognised by the government which would govern the world of online gaming. Furthermore, it should also make a grievance redressal body which would adjudicate the disputes related to the consumers/users. Other guiding principles like allowing only persons above 18 years for participation in online games, accountability and transparency in the working of the 'Online Sports Fantasy Platforms' (OFSPs) is what the NITI Aayog suggests. The regulation would be possible only when this legislation would be put under centre list in 17th Schedule of the Constitution of India. Uniformity in the laws is a must to regulate the online gaming in India. Also, the outdated laws related to betting/gambling must be updated to match the present needs.

The report by Federation of Indian Chambers of Commerce and Industry (FICCI) in 2012 on whether regulating betting would help. In the report it was estimated that the sports betting market in India is estimated at Rs. 3 lakh crore and if this market is regulated then it can generate tax of 12,000 crores to 19,000 crores which would surely boost the economy. If the betting is regularised then the output would be manifold:

1. It would be a blow against betting syndicates.
2. It would generate a good amount of tax revenue for development in sports.
3. It has social benefits also as it would generate employment.
4. Protection for the young and vulnerable against the dangers of unwise betting behaviour.
5. Protection of players, coaches and other people involved in sports from unscrupulous practices.

SUGGESTIONS

1. The Public Gambling Act, 1867 should be amended or a new law be enacted which would include match/spot fixing, online sports gaming/betting etc. The existing law has become

outdated and no longer practically valid. There are various terms which need to be added in the act and their proper meaning be provided with and the

2. There should be a uniform law which would be applicable to all the states i.e. 'betting and gambling' should be included in the centre list. This would help in regulating gambling and would also help in generating the revenue to the government. Currently, the states have to go their own with regard to these subjects. Once they are made to come under the centre list, it would be easier to regulate it.
3. The proposed bills by the Mr. Tharoor and Mr. Anurag Thakur be taken into consideration and a single act be enacted. Apart from these parliamentarians, other jurists, intellectuals' views must be invited so that they would give their suggestions regarding the enactment of a proper act. A holistic approach must be taken to enact a full fledged act.
4. A public health approach to gambling and betting must be taken and the awareness must be made among the youth regarding the potential risk of gambling addiction. The covid-19 has further caused a lot more of use of online gaming platforms which allows the user to go for betting and gambling while sitting in their homes. The client friendly approach of these online platforms has only furthered the problem. It is high time to make awareness towards the risk of gambling addiction. The government must introduce programmes to make the general public aware about this menace.