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**PRIVATE MEMBER BILL BY SHASHI THAROOR - WHY SPORTS
BETTING SHOULD BE LEGALIZED?**

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ABSTRACT

From the serene lives in the earlier times to the fast-paced lives in the modern world, one thing that has remained constant is the interest of people in sports. Whether it be regarding playing a particular sport or just watching their favorite sport on television, the evolution of the sport's industry has been massive. Some people have just made playing a sport as a part of their leisure activities while many great athletes have been a gift for this world from the sport's industry that chose to make their career in sports. In a nation like India, sports have always been an imperative part of the people living here. This nation has taken sports from just being an activity of amusement to something with a global reach. Sports have given this nation their biggest athletes that have made India proud on a global stage. India has turned into a nation that welcomed its greatest acknowledgement of hosting innumerable national and international events. With sport's reaching the pinnacle of success and fame, it becomes imperative to have laws that can govern the proper implementation of everything. Sports industry has also been through a thread of certain hardships. The research papers deal with the history of sports law in India, the laws that govern sports activities in India and how legalization of sports betting will affect this nation.

INTRODUCTION

Sports with its introduction to the world has been viewed as an activity of sheer commitment and enjoyment. Sports has been a source of entertainment for people of all age groups. People are always seen enjoying sports. With its evolution, it has created a special place in the heart and

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soul of people. Sports like football, cricket and hockey have followers from all over the world and they never get tired of enjoying every moment of it. Sports industry alone generates a total of 3 percent revenue² and contributes to world trade. Sports in India have also evolved with time. India has produced some great athletes in all sectors of sports that have made India proud on the grandest stage. The facilities, knowledge of coaches and infrastructure of stadiums has drastically improved in recent years. Every evolution has its own pros and cons. With a drastic improvement in recent years, sports have also witnessed some activities that were considered as a black spot in the industry. People have made sports as a medium of earning money through betting and gambling. Business of gambling and betting on games and players has stretched its arms. What once was an activity of amusement has now become a victim of an addiction.

HISTORY OF SPORTS LAW IN INDIA

Sports in this nation have always been a source of immaculateness and have reached the zenith of popularity and love among the hearts of people. India has a long-lasting history of sports and it has been an integral part of Ancient India. From the times when India was ruled by kings and rulers, sports was always a part of their regime. Chess, hockey, cricket, football, all of these sports were a part of their routine and they enjoyed it efficiently. Reports are there that show how people used to play sports to earn money by showcasing their skills in front of rulers³. Little did they know about making their respective careers in this field. Federations were set up to promote talent and encourage youth to make a career in this field. Little did they know about this. They took it as an activity of leisure and went with the flow. The mentality of this nation plays a major role in determining the mindset of a child to make a career in sports. Till this modern period, parents have given more importance to academic intelligence neglecting the importance and opportunities that sports have to offer. Sports has grown well in recent times, but the lack of support from the government and inadequacy in proper governing laws for sports has hindered the success it deserves. The need for bringing all the authorities together under supervision is the need of the hour. With the surge in reach of sports in India to a global stage, the necessity to

2. Brent Johnson, *This is how much money sports betting is expected to bring*, (NJ.COM, May 21, 2018), https://www.nj.com/politics/2018/05/this_is_how_much_money_sports_betting_is_expected.html

3. James H. Frey & D. Stanley Eitzen, *Sport and Society*, (Annual Review of Sociology, vol. 17, 1991, pp. 503–522), JSTOR, www.jstor.org/stable/2083352.

have proper laws that can be followed and implemented and that can regulate the sports industry became imperative.

NATIONAL SPORTS POLICY

Sports was becoming a part of everyone's lives and was being cherished. It is where the thought of making India's image in sports deepen its roots originated. Athletes from India used to participate in competitions and tournaments but this alone was not enough to deepen its roots and make India's name high at a world stage. To encounter this, a verdict was given of National Sports Policy in August 1984⁴, in both the houses of parliament. It was a plan that was supposed to be reviewed after every 5 years to check on the progress and development and to make decisions regarding the further progress. It was formed to curb the rise in corruption and betting involved in sports. It remained incomplete without a proper implementation which gave rise to revision of the bill. The bill was reformulated again in the year 2001. Three-fold guideline was set up:

- To dig deep into the areas that need to be embarked by different agencies for the promotion and development of sports.
- The procedure was laid down to be followed by the agencies and federations and to make aid by government available.
- Identification of agencies that can be brought under the purview of this policy.

After the policy was set up, the sport was included in the State list of the Seventh Schedule (Entry 33) of the Constitution.

SPORTS AUTHORITY OF INDIA

The Ministry of Youth Affairs and Sports of Government of India in 1982 established Sports Authority of India (SAI) to put up a step ahead for the development of sports. Located around 9 regions of India, it has served as one of the most important contributors in development of sports in this nation. It set up the physical education programs to educate people and enhance their knowledge. With an endeavor to stretch the global reach of sports in India, SAI⁵ increased the

4. National Sports Policy 2001, <https://yas.nic.in/sites/default/files/National%20Sports%20Policy%202001> (last visited Apr. 21, 2021)

5. Advocatetanjay law library, <https://advocatetanjay.com/2017/05/07/sports-law-in-india/>, (last visited Apr. 21, 2021)

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contacts with foreign coaches and experts to develop the expertise. From then to now SAI has been working tirelessly to promote sports and make Indian sports industry reach new heights.

MINISTRY OF YOUTH AFFAIRS AND SPORTS

Set up in 1862 at Asian Games and then further bifurcated in 2008 as Department of Youth and Department of Sports, it is a branch of Government of India that is responsible for administering the regulation of sports under the Government of India. The ministry is responsible for presenting the greatest honors of sports of the nation namely, Dronacharya Award, Arjuna Award, Dhyani Chand Award⁶. It has been working relentlessly for the development of sports in this nation.

PRIVATE MEMBER BILL BY SHASHI THAROOR

On December 28, 2018 a Private member bill, Sports (Online Gaming and Prevention of Fraud) Bill in the lower house of Parliament was introduced by Thiruvananthapuram MP, Shashi Tharoor, for regulation of sports betting⁷. The release of 276th Report to the Government, titled 'Legal Framework: Gambling and Sports Betting including in Cricket in India' by the Law Commission suggested that fraud and match fixing should be criminalized and sport betting should be legalized under strict surveillance by the Parliament. The bill has been impeccably articulated and has been viewed by high authoritative legal practitioners. The bill proposes legalizing sports betting in India and criminalizing the activities of sports fraud and match fixing. The bill also proposes the formation of a seven-member committee to monitor online sports online gaming. Rules and regulations for the same will solely lie in the hands of committee and there is no barred limit of the number of rules and regulations that can be there. Any number of rules and regulations can be inundated⁸. Further, he stated how sports betting has been a market that is growing at a terrific pace in India and how legalizing it would help the Government generate the revenue. Stating his love for sports he said that he himself is a great admirer of

6. India Today, <https://www.indiatoday.in/education-today/news/story/ministry-of-youth-affairs-and-sports-working-with-un-agencies-for-youth-in-india> (last visited Apr 22, 2021)

7. Namita Singh, *Shashi Tharoor Introduces Bill To Regulate The Online Gambling; What About Regulating Promotions?*, (Medianama, Jan. 16, 2019), <https://www.medianama.com/2019/01/223-shashi-tharoor-introduces-bill-to-regulate-the-online-gambling-what-about-regulating-promotions/>

8. Vinay Chabbria, *Dr Shashi Tharoor explains why sports betting should be legalised in India*, (Yahoo!news, Sep. 4, 2020), <https://in.news.yahoo.com/dr-shashi-tharoor-explains-why-022342943.html>

sports and how people of this country worship sport like cricket. He stated that by legalizing sports betting the Government will have a control over the activities of people engrossed in betting and it will not be a monopoly of underworld mafias that are responsible for match fixing. The bill also focuses on maintaining the integrity of sports and preventing any event such as manipulations of match fixing to result in abandonment of any match in any sport. The bill had given definition of online sports gaming as placing a bet on an outcome of a match either whole or partial by the means of a telecommunication device. The potential restrictions that can be carried out by commission is barring the minors to participate and to limit the highest betting fees one can bid. Various forms of sports frauds such as match fixing and spot fixing are not dealt under the current legal framework. The market of sports betting is expected to be \$515 billion by the end of 2021. The current profession teams for it have grown to 30 teams which were limited to 16 back in 2016. With this market growing at such a pace, it is quite evident that it has bloomed in recent years and is seeing no signs of ebbing down in near future. The bill was introduced to deal with the loopholes our current legal system carries. The bill was aimed at establishing a proper procedure to deal with the sports fraud. The bill also penalizes anyone who has any kind of information regarding the manipulation or is involved in a manipulation or an act of sports fraud such as match fixing, spot fixing or bribery for providing confidential information or manipulating a sport fraud for an imprisonment of term that may extend to 5 years with a fine of rupees 10 lakh or 5 times the number of economic benefits inculcated by the sports fraud, whichever is greater.

LEGALISING SPORTS BETTING IN INDIA

The IPL (Indian Premier League) scandal of 2013 raised some serious questions about sports betting and spot fixing in India and the laws and rules to revitalize their policies for keeping a check on such practices. The scandal has raised questions on the lawmakers. Legalizing of sports betting in India has been viewed as a measurable solution. There have been intricate links between spot fixing and sports betting. It has been said the latter has the power to abandon the former. It is almost impossible to implement a complete ban on sports betting but legalizing it and controlling it the way the Government wants is a significant way to look upon⁹. Legalization

9. Amit Shanbaug, *Legalise Betting to Counter Spot-fixing: FICCI*, (The Economic Times, May. 24, 2013), http://articles.economictimes.indiatimes.com/2013-05-24/news/39502130_1_ficci-regu-lation-sports-development

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of betting will help have a control over the activities of the bookies and will be taken away from the criminals. Apart from this, the authorities will have trusted sources to rely on when suspicion will arise in cases of corrupted bets and fixing. Sports betting is still a grey area in India. The honorable Supreme Court in one of its judgments stated that betting on horse racing falls under the game of skill as the involvement of judging the breed of horse, the horse's form and the jockey's form is a game of skill.¹⁰The Constitution of India (Seventh Schedule, State List, Entry 34) gives states the right to create their own laws and policies regarding betting and gambling. Premises of betting and gambling falls under the state. Betting is legalized in the states, Goa and Sikkim. Unregulated sports betting has given rise to problems like not being able to keep a check on the market of betting as it is a black market. It is also unknown whether the rookies are carrying this with minors or people who are addicted to it, it leaves no space to find solutions to combat the threat it possesses to society. The track of cash flow of the betting market cannot be maintained in records and there is no way to monitor the pattern of the same. The government by legalizing it can earn tax revenues up to Rupees 13,000 crores- 20,000 crores. Legalization of sports betting will be a move that will encounter numerous problems within itself. It will not end the problem of match fixing completely but it will ease the way of tracking and monitoring the betting patterns and to keep a record of money invested. The bookmakers will also keep record of transactions they will make and keep the record of the names and details of people they are betting. The Government will have records of people engaging in betting which will prevent them from engaging in sports fraud as they will be inculcated with the fear of being caught and then punishment that will follow up. The license holders will have a fear of getting their license cancelled. These all things are possible only when sports betting is legalized. The money would also be used for maintaining the sports infrastructure, funds and for the betterment of athletes.

WILL BLACK MARKET STILL EXIST EVEN AFTER LEGALISING SPORTS BETTING?

The market of sports betting has been a black market since a long time now. Deleting it completely would be a task next to impossible. Regulating it will give rise to a hope of improvement. The regulatory commission will set up the rules and regulations of the betting and

10.FICCI, <https://blog.ficci.com/archives/3708/2>, (last visited Apr.23, 2021)

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legitimate ways to carry it out. The bookmakers will be legitimate ones and people will prefer opting for legal and legitimate ways rather than getting involved with criminals under the ambit of black market¹¹. Everyone prefers to go with the legal ways when money is involved. When people will opt for the legal way, the black market of sports betting will lose its scope over a period of time. Sports betting is not new to India. It has been done from earlier times and has been continuing till now. Recent years have seen a surge in online betting and gambling. India is now becoming a hub where people are taking more interest in sports betting that they ever have. They see it as an easy way of making money. There have always been sources that have continuously talked about the underground market of betting¹². The market has been a place where people from all aspects, whether rich or poor have visited and have put their money on stake. Sports betting is now taking a turn of addiction among people. Sports specially like cricket and football have attracted major sports betting cases in India. Online sports betting is not illegal in India. India views it as something that is unlawful. It has been a topic of grey area. Indians are not prohibited for online betting on the sites that are based anywhere outside India. Therefore, Indians can place their bets on sites that have their bases outside India which makes it legal¹³. The legalizing of sports betting in India has been in the minds in recent times. There also lies a confusion between differences in betting and fixing. Betting is something that puts a person's money on stake depending upon the result of the match. Fixing is something that decides the decision of the match and the result is dependent on the fixing done. It has been found out that betting has somehow contributed to a surge in fixing. Rookies have made big money by betting hefty amounts on the results of the matches and have paid for fixing them to turn the results into their favor in order to make money from betting as well. Sports betting is seen by some as a game of pure skill while some see it as a game of pure luck. The market of sports betting has a worth of \$100 billion, and is growing at a pace of 7% per year¹⁴. Middle class men have seen this as an opportunity to make more income and have a more sustainable life. The market of Sports

11. Findustry Insights, *Legalizing sports betting in India*, (The Times Of India, Sep.22, 2020), <https://timesofindia.indiatimes.com/readersblog/findustry-insights/legalizing-sports-betting-in-india-26365/>

12. Radhika Gupta, *Legalizing Betting in Sports: Some Reflections on Lawmaking, Economic and Political weekly*, (JSTOR, Nov.30, 2013), JSTOR, www.jstor.org/stable/23528912.

13. Tanmai Paul, *Should Gambling be legalized in India*, (Careeranna, Jul.25, 2018), <https://www.careeranna.com/articles/should-gambling-be-legalized-in-india/>

14. Sneha Bachhawat, *Legalizing sports betting in India*, (International Journal of Advance Legal Research, Sep.21, 2020), <https://www.ijalr.in/2020/09/legalising-sports-betting-in-india.html>

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betting is now stretching its arms way more than it ever has. Regulation of betting will put a hold on this black market and will prove as an imperative step of betterment.

SPORTS BETTING AND MORALITY

India is a country of rich heritage and people here hold morals and values in very high regard. The human relationships in India with regard to money have given rise to the feeling of viewing betting as an act of immorality. It is an individual's own choice to see anything worthy of his moral values. Sports betting has made people see sports with a negative influence. Feelings like honesty, values, justice, patriotism have been substituted by feelings of greed, cheating, fraud and malice. Regulating betting with legitimate and ethical methods will also lead to the maintenance of integrity in sports¹⁵. The belief of justice and fairness will be present. Legalizing sports betting will also result in the involvement of players, referees and authorities in it as well which will lead to a feeling of justice and fairness and people will view it as an act of morality. People have a liberty to make their own choices. They have a choice of considering betting a moral thing or an immoral thing. Betting is morally neutral. But legalizing sports betting will surely be a step of propelling into a direction of making people consider it as something moral when there will be a proper law and order administering its rules and regulations keeping in mind the ethical values.

CONCLUSION

Sports have always been worshipped in this nation. With the evolution of time, sports betting has made its vast presence felt. Fantasy sports and betting have stretched their arms and fantasy sports platforms like Dream 11 have sponsored IPL(Indian Premier League). There are many platforms in this sector which allow people to place bets on teams and players. People are now getting addicted to sports betting. Some say that sports betting has destroyed many households and left people bankrupt. Legalizing sports betting will also keep a check on this thing as it will regulate the licenses and will limit the number of caps at a given time. Furthermore, it will also educate people about its pros and what cons excessive sports betting holds. The law

15.Exclusivepapers.com, <https://exclusivepapers.com/essays/ethics/ethics-in-sports-betting.php>.

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commission¹⁶ has suggested legalizing sports betting and to regulate it as it will help the government generate heavy tax revenues. In a nutshell, sports betting has revolutionized and many people indulge in it in this nation, to legalize it is a question to which only the Government has the solution but it is a better option to legalize it than from banning it.



16.Debrandin Brown, *The morality of sports betting*, (Student Media, Sep.24, 2018), https://www.southerndigest.com/article_0a40e0fa-c07f-11e8-b29c-d3b79c9c5185.html