

## Re-evaluating India's High GST on Gambling: Balancing Social Responsibility and Economic Growth

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### ABSTRACT

*This paper delves into the implications of a high rate of GST being imposed on the gambling industry in India, emphasizing the impact on not only the frequency of gambling among the elite but also the tax revenues sourced from foreign visitors who contribute significantly to India's diverse gambling offerings. Furthermore, this critique of the tax explores how these changes might undermine the tourism sector, erode employment opportunities, and curtail economic development in states reliant on gambling revenue, such as Goa and Sikkim. In the broader context of India's socioeconomic landscape, it challenges the notion that increasing taxation is inherently beneficial and emphasizes that a welfare state's fundamental duty is to safeguard and promote the well-being of its citizens, particularly the less privileged. Paradoxically, the decision to raise the GST rate on gambling activities perpetuates and exacerbates the challenges faced by the less affluent, depriving them of essential employment opportunities and developmental prospects that are crucial for economic advancement. This paper aims to shed light on these dynamics and stimulate a discussion on the multifaceted consequences of this recent policy change.*

**Keywords:** *GST Impact, Gambling Taxation, Tourism, Economics, Economic Development, Socioeconomic Consequences.*

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### 1.0 Introduction

Indirect taxes such as Goods and Services Tax (GST) have been a key source of revenue for the government, with GST, in particular, providing for a unified tax system designed to simplify the complexities of tax collection by shifting the financial burden from service providers and vendors to end consumers. It replaces an array of smaller taxes levied on transactions, ultimately coalescing into a single, unified tax borne by the final consumer, and remitted by the vendor to the government.<sup>1</sup>

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On August 4, 2023, the Parliament sanctioned legislative amendments to extend the GST Council's resolution, of the payment of a 28% GST tax on the entire value of deposits made by individuals on online gaming platforms, horse racing clubs, and casinos starting from October 1st.<sup>2</sup> While this policy may seem to be a step in the right direction to mitigate the negative social impacts of gambling, this paper argues that there is also a significant business impact and economic potential that we are forgoing by imposing such heavy taxes on every step of such transactions.

## **2.0 Background**

Gambling has deep historical roots within the Hindu faith and the broader Indian subcontinent, with its earliest documented mentions appearing highlighting either neutral or negative connotations, in seminal texts like the Arthashastras, the Ramayana, and the Mahabharata.<sup>3</sup> However, the practice has prevailed the change in cultural tides, sustaining popularity in the subcontinent.

### **2.1 Gambling gentry**

The portrayal of the gambler as a destitute individual who squanders all of his family's savings is a recurring theme in Bollywood and Indian cinema.<sup>4</sup> However, the same is not representative of the gentry engaging in online gaming, casinos, and horse racing clubs in India. These avenues often come with certain barriers to entry that help safeguard economically vulnerable segments of society, be it in the form of an entry charge at a casino, or a membership fee requirement at a country club. By setting standards and regulations, the government seeks to strike a balance between allowing gambling as a legitimate form of entertainment and maintaining the financial security of its citizens, but does this align with its welfare state obligations?

### **2.2 Online gaming**

One such barrier to entry is the requirement of a minimum deposit to set up an account for online gaming or gambling.<sup>5</sup> This financial prerequisite acts as a deterrent for those who may not have the means to engage in these activities recklessly. By imposing a minimum deposit, the operators of these platforms not only ensure responsible gambling but also indirectly protect the interests of financially vulnerable individuals who might otherwise be tempted to bet with money they cannot afford to lose. Furthermore, engaging in online gambling would also require some implicit expenditure not inclusive of the money deposited, such as access to the internet and a device that connects to the internet such as a smartphone or a computer. The combination of these costs does not make it impossible to attain but certainly does impose some barriers to entry into the participation pool.

In the Indian context, the government plays a significant role in monitoring and regulating the online gaming industry, exemplified by its approach to online betting games like Lotus 360. As a welfare state, the government's primary concern is to secure the social interest of its citizens, which includes safeguarding them from deceitful practices and activities that are against the public's interest. Consequently, the government keeps a watchful eye on the gambling industry and takes necessary actions to crack down on games and platforms that it deems dishonest or detrimental to the well-being of the public.

### **2.3 Casinos**

The casino industry in India too has in place economic barriers that significantly limit access to gambling activities, reinforcing the notion that these venues are predominantly frequented by the economically privileged and tourists. State-approved and licensed casinos are already limited in number, and they impose substantial entry fees, typically starting at a minimum of Rs. 1,500. This entry fee serves as an initial hurdle that dissuades those with limited financial resources from visiting these establishments.<sup>6</sup>

Once inside a casino, the financial challenges continue to mount. The cost of participating in individual games can be prohibitively expensive for the average Indian. Casino games often require a minimum wager to participate, and these minimum bets can be quite high, further excluding those who cannot afford to risk such sums. This effectively prices out a large portion of the Indian demographic, ensuring that casinos remain the exclusive domain of the affluent and tourists who have greater disposable income. The high costs associated with casinos, from the entry fees to the individual game bets, create a significant socioeconomic divide in the consumption of gambling as an entertainment option. This divide is further exacerbated by the limited number of state-approved casinos, which inadvertently limits the accessibility of these venues to a more diverse demographic.

### **2.4 Horse clubs**

Horse clubs and the practice of betting on their races in India have, throughout history, maintained an air of exclusivity largely reserved for the country's wealthiest and most influential individuals.<sup>7</sup> The origins of horse racing in India can be traced back to the British colonial period when it was introduced as a sport for the elite. The British elite, along with the Indian maharajas and nobility, established their own breeding and racing operations, creating an atmosphere of glamour and prestige.

Even in contemporary times, horse racing remains a symbol of privilege and affluence. Exclusive turf clubs like the Royal Calcutta Turf Club and the Royal Western India Turf Club host race meets that attract high-society attendees who often arrive in lavish outfits and are ready to place substantial bets. The spectacle is a showcase of opulence, with VIP enclosures, gourmet dining, and extravagant social gatherings. While efforts have been made

to broaden the appeal of horse racing, the historical association of the sport with the elite continues to shape its image, making it a symbol of prestige and luxury in Indian society. This enduring connection between horse racing and the upper echelons of society serves as a testament to the sport's enduring legacy of exclusivity in India.

### **3.0 Social Costs**

'Problem gambling', as discussed by Lesieur and Rosenthal, encompasses gambling behaviours that disrupt or undermine an individual's personal, family, or recreational life.<sup>8</sup> This issue is closely linked to an array of health and social consequences, impacting not only the affected individual but also their family and society as a whole. It is imperative to recognize the far-reaching implications of problem gambling, as it can lead to severe physical and mental health issues, financial crises, criminal activities, strained relationships, and substantial societal burdens, and in this context, regulations disincentivizing gambling by a welfare state are a welcome strategy.

Physically, problem gambling can take a toll on the well-being of the individual involved.<sup>9</sup> Gamblers grappling with addiction frequently exhibit high rates of psychosomatic symptoms, encompassing cardiovascular, musculoskeletal, gastrointestinal, and other non-specific psychosomatic complaints. The detrimental effects extend to mental health, with individuals facing issues such as depression, anxiety, substance abuse, and personality disorders. In financial terms, problem gambling often leads to dire circumstances for the gambler. Large debts, poverty, and even bankruptcy can be the unfortunate outcomes, compounding the individual's struggles. Moreover, problem gambling is associated with criminal activities, ranging from theft and prostitution to violent offences, which inevitably entail legal consequences.

The adverse impact of problem gambling transcends the individual, profoundly affecting interpersonal relationships and society at large.<sup>10</sup> Within families, problem gambling can lead to strained relationships, as individuals often prioritize their gambling habits over their loved ones, causing financial strain, conflicts, and even relationship breakdowns. In the worst cases, problem gambling can result in domestic violence and child abuse, with the desperation to recover losses creating a hostile and unsafe environment for family members. At the societal level too, the costs of problem gambling are considerable, with many problem gamblers resorting to criminal activities to feed their gambling, creating a financial and social burden on society.<sup>11</sup> Additionally, the burden extends to various costs associated with healthcare and social services, as those affected often require treatment for mental health issues, addiction, and other related challenges. This results in a drain on public resources to support affected families, address legal matters, and fund public awareness campaigns and education efforts to combat problem gambling.

Addressing problem gambling is not merely a matter of individual concern; it is a multifaceted issue that necessitates comprehensive attention and support at the personal, familial, and societal levels. Therefore, intervention by the centre, especially in the case of India as a welfare state, is imperative to mitigate such risks.

#### **4.0 Legal Measures**

The Indian Constitution's Seventh Schedule grants State Governments the authority to enact laws pertaining to gambling and betting activities. This allocation of power to the states has led to a diverse set of regulations across the country, with many states exercising their autonomy to ban it altogether, while others use it as a means of generating revenue and attracting tourism.

##### **4.1 Public Gambling Act, 1867**

The landmark legislation in this regard was the Public Gambling Act of 1867, a central law that sought to govern and regulate these activities.<sup>12</sup> Through its provisions, the statute provides for penalties and punishments associated with public gambling and the operation of common gaming houses. It also forms the basis of our understanding of what constitutes gambling in the Indian legal context, as games of chance, as provided by Section 12 of the Act, which goes on to explicitly exclude games of skill from the ambit of its application. After India's independence, most states tailored state legislation on the groundwork of this Act. Thereby, these state legislations generally prohibit gambling and betting activities, with certain exceptions like horse racing.

##### **4.2 State legislation**

The apprehensions reflected by the Public Gambling Act of 1867, however, did not deter all state legislators from capitalizing on the industry. The regulation of gambling, especially casinos in certain Indian states continues to remain a complex and evolving matter. In Goa, Daman, and Diu, the legal framework for casinos is primarily governed by the Goa, Daman and Diu Public Gambling Act of 1976, commonly referred to as the "Goa Act".<sup>13</sup> Herein, casinos are permitted and regulated, and they operate under the jurisdiction of the state's Home Department. The Goa Act provides the legal basis for the operation of casinos in this region, outlining the rules and regulations that casino operators must adhere to, including licensing and taxation requirements.

Similarly, in the state of Sikkim, casinos are regulated under the Sikkim Casinos (Control and Tax) Act of 2002, known as the "Sikkim Casino Act".<sup>14</sup> The state's Tourism Department takes charge of overseeing the casino industry in Sikkim, and in this regard, the Act provides the legal framework for the establishment, operation, and taxation of casinos in

the state, including provisions for maintaining the integrity and transparency of casino operations. In Meghalaya, the permissibility of casinos is governed by The Meghalaya Regulation of Gaming Act, 2021.<sup>15</sup> Herein, casino games are subject to regulation, and the state government is the responsible authority for overseeing casino operations. Meghalaya's approach to the casino industry reflects the state's unique perspective on gaming and gambling activities, since while the state acknowledges the potential economic benefits of casinos, it balances this with regulatory measures to ensure responsible and lawful gaming practices. The permissibility of casinos in Meghalaya exemplifies the state's willingness to engage with the industry while maintaining control and accountability to uphold the integrity of casino operations within its borders.

Overall, the permissibility and regulation of casinos in these states validate the state-level autonomy that exists within India's legal system, allowing regions to craft their policies and regulations for the casino industry in alignment with their specific objectives and priorities. But this raises some concerns of its own, while horse racing can justifiably, as a game of skill be exempted from the gambling legislation, why are casinos and no other forms of gambling permitted? Why is it that only the forms of gambling accessible to the rich are being endorsed by the state while sidelining the accessibility of the game as a form of entertainment for the general public?

#### **4.3 Prize Competition Act, 1995**

The Prize Competition Act of 1955 serves as an innovative piece of legislation aimed at restricting gambling activities that offer prizes as winnings.<sup>16</sup> Per Section 4 of the Act, any prize competition that offers winnings exceeding ₹1,000 is declared unlawful and impermissible.<sup>17</sup> This provision was introduced to curb the proliferation of gambling-related activities and protect individuals from potentially harmful consequences associated with excessive gambling. The Prize Competition Act was pivotal in regulating and curbing the gambling industry in India, as a welfare legislation, particularly where contests and competitions were used as a guise for gambling.

#### **4.4 Information Technology Act, 2000**

The Information Technology Act of 2000 primarily focuses on regulating cyber activities and ensuring the security and integrity of digital transactions.<sup>18</sup> While the Information Technology Act does not explicitly address matters related to gambling or betting, it leaves these issues open to the interpretation of courts and other authorities so as to widen its ambit and secure the safeguards for those vulnerable to online money scams. The absence of specific provisions related to gambling or betting in the Information Technology Act has raised questions and challenges regarding the regulation of online gambling platforms and

activities in India. As a result, courts interpret the Information Technology Act concerning gambling-related matters.

These statutes, especially the Prize Competition Act, underscore the government's commitment to safeguarding the financial interests of its citizens and fulfilling its role as a welfare state. However, the argument of India failing as a welfare state for it permits casinos and horse racing fails merit.<sup>19</sup> The permissibility of these forms of gambling is not necessarily contradictory to the principles of a welfare state. The states' autonomy in regulating these activities reflects a pragmatic approach to the economic opportunities they provide, such as job creation and tourism revenue. Moreover, the legal framework surrounding casinos and horse racing in India often includes provisions for responsible gaming practices and the prevention of addiction, which further demonstrates the government's commitment to balancing economic interests with social responsibility.

## **5.0 Business Impact**

While there are certain undeniable social costs associated with the act of gambling, there are also many a business-bearing, and economic development opportunities associated with the commercialization of gambling. The thriving gambling industry and its interplay with tourism can be a pivotal driver of economic growth in a region.<sup>20</sup> Beyond the direct employment opportunities, it offers within the gambling sector, which includes roles such as casino staff and personnel at horse racing clubs, there's a significant ripple effect on related activities. This effect extends into the expansive service and hospitality industries, creating jobs for a diverse range of individuals. Casino workers, including dealers and croupiers, find employment alongside those involved in horse racing, such as jockeys, trainers, and administrative staff. This diverse workforce contributes to the social and economic fabric of the area, often improving the livelihoods of residents.

The presence of a thriving gambling industry attracts a higher number of tourists and visitors. This, in turn, stimulates the demand for hospitality services, from hotels and restaurants to bars and entertainment venues. This surge in activity leads to more job opportunities in these sectors, including positions for hotel staff, chefs, servers, bartenders, housekeeping personnel, and event organizers.<sup>21</sup> It's not just the large hotels and resorts that benefit; smaller businesses also experience increased patronage, bolstering local economies.

The economic impact of a thriving gambling industry doesn't stop at job creation. It can lead to overall improvements in the local economy and contribute to the development of the region. The increased economic activity can result in enhanced infrastructure, better public services, and an overall higher quality of life for residents. The local community can benefit from improved schools, healthcare facilities, and public amenities. As the area's economy

flourishes, it can also lead to higher property values, further bolstering the financial well-being of residents and businesses in the region.

Furthermore, the thriving gambling industry can serve as a catalyst for tourism and promotional activities. Casinos and horse racing events can become significant tourist attractions, drawing in visitors from various regions. This influx of tourists can bolster the region's image and promote tourism as a whole, stimulating economic development.<sup>22</sup> The government also stands to benefit from the taxation and licensing fees imposed on gambling operations, with these revenues being directed toward public services, infrastructure projects, and other initiatives that enhance the overall well-being of the local community.

For a country like India, where employment opportunities are in high demand, particularly in densely populated regions, the potential for a thriving gambling industry offers a promising avenue for economic growth and development. However, it's imperative that this potential is harnessed responsibly. Stringent regulations and mechanisms for responsible gaming are essential to ensure that the economic benefits of the industry are maximized while safeguarding vulnerable individuals and communities from potential harm. With a well-regulated approach, the positive economic impact of the gambling industry can be harnessed for the greater benefit of the local economy and society as a whole.

## **6.0 The Contentious Taxation Framework on Gambling**

The Indian Income Tax Act 1961, mandates the taxation of all types of income, including income from online casinos, without regard to an individual's Indian citizenship status.<sup>23</sup> This statute provides comprehensive guidelines and tax rates, imposing a fixed income tax rate of 30% on income derived from gambling activities by Indian residents. Additionally, when individuals or entities make payments related to gambling income surpassing Rs. 10,000, they are required to deduct the predefined income tax rate of 30%.<sup>24</sup> The introduction of the Equalization Levy (EL) in 2016 further affects the online gambling industry by levying taxes on digital transactions. The EL enforces a fixed tax rate of 2% on funds received by foreign e-commerce companies from Indian e-commerce businesses.

GST also plays a role in taxation, impacting various transactions linked to gambling and betting. Under the GST framework, transactions associated with gambling and betting, post the 2023-24 budget, is subject to a fixed rate of 28% based on the wagered amount. Online betting, games of chance, and games of skill all fall under the purview of the GST, while being taxed at varying rates. Income generated from online betting and games of chance is taxed at 28%, while income derived from online games of skill is subject to an 18% tax rate, with this income tax rate not applying to income amounts below ₹2.5 lakh.<sup>25</sup>

The surge of GST rates, escalating to a staggering 28% within the gambling industry, represents a concerning development that highlights the presence of significant policy flaws.



This decision appears to be divorced from a consideration of the industry: its principal financial contributors. It is the affluent elite of Indian society, along with the inflow of tourists, who predominantly grace the corridors of casinos and race clubs, bolstering the financial backbone of this sector. Unfortunately, the decision to levy a 28% GST rate, coupled with the already substantial financial burdens associated with such leisure activities, is poised to create a deterrent for such gentry, steering them away from these pursuits.

In effect, the policy alteration not only threatens to diminish the frequency of gambling among this demographic but also stands to negatively impact the tax revenues sourced from foreign visitors who are drawn to India's diverse gambling offerings. The consequence of this shift has the potential to undermine the tourism sector, erode employment prospects, and curtail economic development opportunities in select Indian states, including but not limited to Goa and Sikkim. These states heavily rely on the revenue generated by the gambling industry to support their fiscal well-being. In the broader context of India, with its prevailing unemployment challenges, the implications of such a policy change could be profoundly detrimental, with the potential to undermine the nation's economic progress and prospects. It is crucial to recognize that historically, these forms of recreation have been the exclusive purview of the privileged elite.

Even with their partial legalization in India, access to these activities remains predominantly restricted to those with financial means. Consequently, the argument that an increase in taxation represents a step in the right direction is inherently flawed. The concept of a welfare state, by definition, centres on governance that actively safeguards and promotes the economic and social well-being of its citizens, with a particular focus on those segments of society most in need of state intervention—typically the less privileged.<sup>26</sup> In this context, the decision to raise the GST rate on gambling activities paradoxically perpetuates and exacerbates the challenges faced by the less affluent. It strips away employment opportunities and developmental prospects that are essential for the welfare and economic advancement of these segments of society.

## **7.0 Alternative Approaches**

In contrast to the current taxation system in India, which imposes taxes at every stage of a gambling transaction, it is imperative to adopt a more user-friendly and wide-based approach to fully harness the industry's vast economic potential.

Many countries have chosen a different path, where individuals are taxed on their gambling activities only if it constitute their primary source of income or profession. Notably, in countries like Ireland and Kenya, players are not subject to taxation on their winnings; instead, the onus falls on bookmakers and casinos to pay taxes based on the total bets or winnings they handle. Furthermore, numerous nations have opted to make gambling winnings

entirely tax-free for players, shifting the tax responsibility entirely onto casinos and bookmakers. This progressive tax model is evident in countries such as Austria, Australia, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Finland, Germany, Italy, Malta, Romania, Sweden, and the United Kingdom. It's worth noting that the tax regulations for casinos and gambling operators are far from uniform, with varying degrees of taxation imposed on the gross gaming revenue, along with unique taxation rules in place in different countries.<sup>27</sup>

In light of these global models, the Indian government must consider a more consumer-friendly taxation policy for gambling. This revised wide-based approach would place the tax burden primarily on casino operators, alleviating the financial strain on individual gamblers and aligning with international tax policy and practices.

## **8.0 Conclusion**

The extension of the GST at a high rate of 28% to the gambling industry, encompassing online games, casinos, and horse racing, may have initially been driven by a well-intentioned desire to mitigate the social repercussions associated with excessive gambling. However, it is imperative to recognize that this seemingly prudent approach could have unintended, disastrous consequences by potentially undermining the livelihoods of countless individuals employed within this industry and its associated sectors, most notably in the fields of hospitality and tourism.

The potential detrimental effects of this steep tax increase on the gambling sector, including reduced consumer participation and the subsequent contraction of the industry, pose significant risks to employment opportunities. The hospitality and tourism industries, which are intricately linked with gambling, will also bear the brunt of such a downturn, further exacerbating the economic and social fallout. Therefore, it is incumbent upon policymakers to consider alternative methods of taxation for the gambling industry that can strike a more balanced and sustainable equilibrium between social responsibility and economic stability.

In light of the potential repercussions of the current GST rate, a thorough reevaluation of taxation policies related to the gambling sector is not merely advisable but essential. As we navigate the complexities of this multifaceted issue, it becomes apparent that a comprehensive approach, which considers the preservation of employment, the well-being of the wider economy, and the overall social fabric, is imperative. By carefully examining and redefining our taxation options, we can hope to strike a more equitable and effective balance between the social consequences of gambling and the preservation of livelihoods in this industry and its associated sectors. In doing so, we can better safeguard the interests of both society and the workforce, while still addressing the critical issue of responsible gambling.

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