

India's Law Commission Recommends Legalisation Of Online, Land-Based Gambling

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An eagerly awaited report by the Law Commission of India has cautiously recommended the introduction of formal gambling legislation, arguing that strict regulation of land-based and online operations is “the only viable option” in fighting rampant illegal activity.

The Law Commission's July 5 report entitled [‘Legal Framework: Gambling and Sports Betting including in Cricket in India’](#) has backed any central or state legislature that proceeds with the legalisation of non-skilled gambling.

However, the commission reached that conclusion with some trepidation, with its 145-page report consistently framing non-skilled gambling of any nature as immoral, objectionable and corrupting.

The report notes that existing government policy and “prevalent social and moral values” all stand in opposition to betting and gambling, and that the commission reached the “inescapable conclusion that legalising betting and gambling is not desirable in India in the present scenario”.

However, the commission then argues that pragmatic considerations mandate a new approach to the flourishing underground gambling market, including online gambling.

“[The] incapability to enforce a complete ban has resulted in rampant increase in illegal gambling, resulting in a boom in black-money generation and circulation,” the report says.

“Since it is not possible to prevent these activities completely, effectively regulating them remains the only viable option.

“Thus, if parliament or the state legislatures wish to proceed in this direction, the commission feels that regulated gambling would ensure detection of fraud and money laundering, etc.

“Such regulation of gambling would require a three-pronged strategy, reforming the existing gambling (lottery, horseracing) market, regulating illegal gambling and introducing stringent and over-arching regulations,” it concludes.

The report then makes 21 recommendations for any betting or gambling regulatory regime, including:

- The national parliament is empowered to legislate online betting and gambling through telephony, broadcasting or communications law.
- National legislation legalising gambling could be directly adopted by like-minded state governments.
- Gambling operators must be Indian, but foreign direct investment (FDI) reforms could encourage “technological collaborations, licensing and brand sharing agreements”.
- Gamblers should be restricted to a number of gambling transactions per set period, should use specified payment cards or electronic banking to allow auditing of their cashless transactions and be subject to limits on deposits, winnings (to be taxable) or losses.
- Gamblers should be classified according to their income group, with the lower group banned from higher stakes gambling and poverty-stricken people banned altogether.
- Legislation should be amended to allow gamblers to claim legal winnings in court in the event of a dispute with operators.
- A council should be formed to prevent problem gambling and gambling by minors.
- Match-fixing and sports fraud should be criminalised and subject to “severe punishments”.

Legal sources were mixed on whether the government will take up the Law Commission's recommendations.

Vidushpat Singhania, managing partner of New Delhi-based law firm Krida Legal, is hopeful that the response will prompt the central government to form a standing committee to consider the recommendations.

“The Law Commission of India has considered the moral, constitutional, financial and legal aspects while recommending regulation of sports betting,” he said on Monday.

“This report, being recommendatory to the government, shall serve as an important basis for further contemplation on the issue.”

Mumbai-based Nishith Desai Associates lawyer Gowree Gokhale was less optimistic, noting that the government disregarded earlier reports by the Mudgal Committee and the [Lodha Committee](#) that suggested legalising sports betting.

"I do not believe that central government will act on the report, due to this being a sensitive subject," she told GamblingCompliance on Monday. "Some state governments may proactively take up the recommendations, should they see merit in benefits."

"If the Supreme Court concludes in the matters pending before it that sports betting is a game of skill, then that will give legitimacy to the businesses," she said.

"In that case, it would be most prudent for the central government to act on the recommendations of the Law Commission, to have a licensed regime at least for online activities. Each state may continue to regulate offline activities."

Gokhale noted an anomaly in the commission's report that could be construed to favour legalisation of sports betting outside the framework of gambling activity.

"The commission also observes that sports betting may be viewed as a game of skill, and therefore the argument of immorality of the activity does not survive," she said.

"It is not clear why this argument is not taken forward in the final recommendations of the commission. It could have taken its observation ... forward and then provided recommendations to regulate it effectively."

Nonetheless, Nishith Desai lawyer Ranjana Adhikari said the commission's recommendations on sports betting were "relevant and detailed".

"The recommendations suggested by the commission follow global best practices and a sensible approach has been suggested," she said on Monday.

"One of the key suggestions ... is imposing monetary thresholds on how much can be [placed] as bets and the number of times a player can place bets. This would help keep balance with the issues of problem gambling," she said.

All India Gaming Federation CEO Roland Landers told GamblingCompliance on Monday that he was confident that the report will provide the impetus for either the Supreme Court to rule more favourably for the gambling industry in current and future cases or for the Law Ministry to prepare reforms in conjunction with other government stakeholders, or both.

Meanwhile, a dissenting report by one of the members of the Law Commission objected to the report discussing wider issues of gambling beyond the terms of reference of the Supreme Court.

The commissioner said the "socio-economic and cultural circumstances of the country are not pragmatic to accept legalised gambling activities, as it is still treated as a social stigma", adding that "no form of gambling can be permitted from the soil of this country".