



The Case for a Model Law for Online Betting and Gambling

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Background

The unregulated proliferation of online betting and gambling presents a significant quandary for policymakers at both the state and central levels in India.¹ Members of Parliament (MPs) have highlighted the socio-economic and financial hazards linked with illicit betting and gambling.² Similarly, the Tamil Nadu government has anchored its prohibition stance on the addictive nature of these activities.³ Indian policymakers delineate two categories of risks associated with gambling that necessitate attention – social risks and financial risks.⁴

According to the WHO, social risks tied to gambling include addiction, emotional or physiological distress, and strains on personal relationships, among others.⁵ Financial risks include individuals overspending, unemployment stemming from addiction, and financial losses due to fraudulent practices of gambling operators.⁶ The advent of online gambling and betting exacerbates the risks inherent in the underlying activity, owing to easy access and the increasing frequency of sporting events.⁷

Several states, including Tamil Nadu, Andhra Pradesh, Odisha, Karnataka, Rajasthan, have implemented legislation to prohibit offline betting and gambling. Additionally, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 bar intermediaries from hosting content that encourages gambling. The Bharatiya Nyaya Sanhita, slated to supplant the Indian Penal Code, 1860 in July this year also punishes ‘unauthorised betting or gambling’ with one to seven years of imprisonment and fines.⁸

Despite the existence of laws prohibiting gambling and betting, the offshore online betting and gambling market in India grew by 20 percent between 2020-2023, as reported by Think Change Forum in 2024.⁹

The challenges associated with gambling and betting are particularly acute in the case of offshore apps, as the absence of physical presence in India renders law enforcement difficult. Numerous instances have been reported of individuals suffering substantial financial losses due to lure of unrealistic gains promised by offshore online betting platforms,¹⁰ with some cases culminating in suicides.¹¹ Acknowledging this grave concern, the central government has issued directives to block access to various offshore betting and gambling sites and apps.¹²

Problem Statement

The Public Gambling Act of 1867 is an enactment predating India's independence, which prohibited gambling and was later adopted by several Indian states with amendments.¹³ The Law Commission of India notes that the Act lost its status as a central legislation with the enactment of the Government of India Act in 1935, which delegated exclusive jurisdiction over betting and gambling to state governments.¹⁴ As a consequence, there exists no nationwide legislation prohibiting gambling and betting in India. In states like Haryana, Chandigarh, Himachal Pradesh and Uttar Pradesh which have adopted the Public Gambling Act, only physical or offline gambling is proscribed. Others like Sikkim, Goa and Daman & Diu have implemented laws to regulate online gambling and betting through licensing frameworks. The lack of uniform regulations has created a regulatory grey area for online gambling and betting operators, allowing them to exploit users' vulnerabilities while depriving the exchequer of tax revenues.

Additionally, various betting and gambling applications such as Parimatch, 1xBet, VIP Bet 360 and Stake operate without adequate safeguards like age-gating, exposing minors to illegal activities and inappropriate content. Access control measures, fundamental in protecting minors, are mandated by most international regulations and codes of practice. For instance, the UK Gambling Commission's codes of practice,¹⁵ the European Gambling and Betting Association's standards for gaming and betting,¹⁶ and the Gibraltar Gambling Commissioner's code of practice for the gambling industry¹⁷ all require betting and gambling websites to conduct comprehensive age verifications. Similarly, under Indian law, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules of 2021 impose similar obligations concerning online skill-based money games.¹⁸

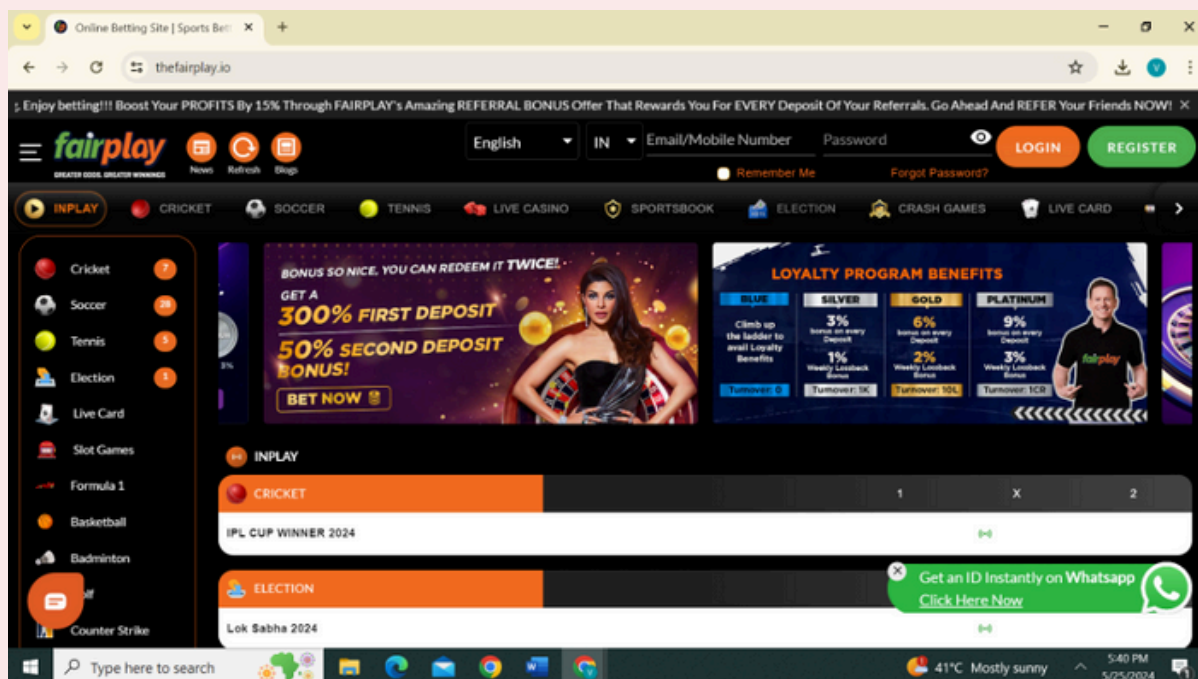
According to the United Nations Office on Drugs and Crime, illegal gambling and betting serve as well-known conduits for money laundering and terror financing due to the absence of users' identity verification requirements or oversight over money flows.¹⁹ The rising use of crypto assets further amplifies this risk, particularly in peer-to-peer transfers which require no bank intervention.²⁰

Misleading advertising exacerbates the concerns about betting and gambling. Advertisements often misrepresent such services as legal and entice users with promises of unrealistic financial gains. Despite multiple advisories from the Ministry of Information and Broadcasting, the Central Consumer Protection Authority and the Department of Consumer Affairs, offshore betting and gambling websites persist in advertising their services across various mediums, including print, electronic, social and online media.²¹

Figure 1 An advertisement on an Indian hoarding for 1Xbet, a sports betting website licensed in Curacao. The image is sourced from an article published on Mint on April 24, 2024, titled IPL, elections are all fair game on illegal betting apps.



Figure 2 'Fairplay', a sports betting website headquartered in Curacao promises users of "greater odds, greater winnings" through its ads, which also highlight its bonus schemes.



A regulatory framework is imperative

'Betting and gambling' fall within the legislative purview of states, as stipulated by Entry 34 of List II (State List) of the Seventh Schedule of the Indian Constitution. While several states have prohibited these activities in physical or offline formats, the proliferation of online platforms presents novel regulatory dilemmas, especially given many of them operate from offshore jurisdictions. Section 69A of the Information Technology Act, 2000 (and the rules enacted under Section 69A) serves as the legal mechanism for blocking public access to a URL. State governments can request the central government to block URLs from public access through their nodal authorities.²² The Centre will usually oblige in cases of apparent illegality of the website. This enforcement remains challenging as most state laws do not specifically address online gambling and betting, and states lack jurisdiction to act against offshore platforms.

Standardising the law governing online betting and gambling is necessary. The current fragmented state-specific approach results in disparate standards of consumer protection across the country. While states retain the prerogative to permit or prohibit online betting and gambling, uniform safeguards are essential to shield individuals from potential harm, irrespective of their state of residence. Digital markets rely on standardised user protections through regulatory mandates, as exemplified by various provisions such as the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and the Consumer Protection (E-Commerce) Rules, 2020 which enforce a uniform grievance redressal mechanisms and due diligence obligations on all intermediaries²³ and e-commerce entities.²⁴ Given the inherent risks associated with betting and gambling, standardised frameworks for consumer protection, grievance redressal, access control and harm minimisation are essential.

Therefore, there is a need for concerted efforts to prohibit online betting and gambling, unless these activities are strictly regulated.

In the following section, we advocate for the central government to devise a model law that states may adopt. This law would bar offshore operators from offering betting and gambling services and subject onshore operators to stringent regulatory oversight via state-level licensing mechanisms, should a state opt to legalise such services.

Proposal for a new model law

Addressing concerns around unregulated gambling and betting necessitates intervention by the central government. In its 2018 report on gambling and sports betting, the Law Commission of India outlined three potential avenues for the Centre to regulate online betting and gambling.

Firstly, Parliament could exercise its authority under Entry 31, List I (Union List) of Schedule VII of the Constitution covering “posts and telegraph; telephones, wireless, broadcasting and other forms of communication.”

Alternatively, the Centre could enact laws on subjects within state jurisdiction, leveraging Articles 249 and 252 of the Indian Constitution, in national interest or upon two or more states’ requests, respectively. However, these approaches entail complex political manoeuvres.

The Commission’s third option proposes that Parliament enact a model law for states to adopt. This model offers the path of least political friction, ensuring states’ autonomy through voluntary adoption, streamlining the legislative process, and uniformly safeguarding users nationwide. The central government has enacted model laws on subjects controlled by state governments such as gambling. One instance is the Model Tenancy Act, 2021 which some states adopted readily. Similarly, although the Public Gambling Act, 1867 was not a ‘model’ law, several states used it as a blueprint for their own enactments.

Therefore, Parliament should enact a model law concerning online betting and gambling, providing states the option to adopt it. Upon adoption, the model law would prohibit all gambling and betting services within a state’s jurisdiction. However, states would retain discretion to legalise and regulate these services, via a licensing framework. Offshore operators would be barred from betting and gambling services unless they establish a physical presence in India. The model law would ensure that these services are either prohibited or strictly regulated.

Proposed features of the model law

Drawing insights from global best practices observed jurisdictions such as the UK, Australia, and the US, where stringent regulation of gambling is paramount, we have identified key elements to inform the design of our proposed model law.

These jurisdictions employ robust regulatory mechanisms, primarily centred around licensing frameworks that restrict the provision of gambling and betting services to entities holding valid operational licenses. A common requirement among these jurisdictions is the mandate for licensees to establish a local physical presence. Regulatory oversight and enforcement are typically entrusted to enforcement commissions which not only oversee licensing, but also ensure compliance with regulatory standards.

Enforcement measures vary across jurisdictions but commonly include the imposition of monetary fines and in severe cases, imprisonment for violations. Notably, the Australian federal government possesses the authority to block access to illegal gambling and betting websites as an enforcement mechanism.

The summarised findings detailing key elements of these regulatory frameworks are presented in the following table:

Jurisdiction	Enforcement authority	Licensing framework	Penalty for unlicensed operations	Onshoring requirements	Access blocking
United Kingdom ²⁵	✓	✓	Monetary penalty, imprisonment	✗	✗
Australia (Federal) ²⁶	✓	✓	Monetary penalty, imprisonment	✓	✓
Australia (Northern Territory)	✓	✓	Monetary penalty	✓	✓
Australian Capital Territory	✓	✓	Monetary penalty, imprisonment	✓	✓
Nevada	✓	✓	Monetary penalty, imprisonment	✓	✗

Based on the comprehensive analysis above, our proposed model law advocates for stringent measures to regulate the provision of gambling and betting services. The core tenet of our proposal is to prohibit offshore operators from offering such services unless they establish a physical presence in India. Onshore operators would be permitted to provide betting and gambling services under a robust licensing regime, overseen by state nodal authorities. To outline the specifics of our proposed model law, we advocate the inclusion of the following elements:

1. Mandatory licensing: The model law should establish a default prohibition on gambling and betting activities, allowing states to legalise such activities only through a carefully structured licensing framework. This framework would delineate conditions and requirements for obtaining a licence ensuring that betting and gambling are strictly regulated. Importantly, services provided by offshore operators lacking a physical presence in India would be prohibited. The proposed licensing framework will include the following mandatory principles for states to implement:

- **Accountability:** A pivotal aspect of the proposed licensing framework is to enhance regulatory oversight. This would be achieved through measures such as customer due diligence, continuous monitoring, reporting of suspicious transactions and stringent record-keeping obligations.
- **Harm reduction:** Licensees would be mandated to educate customers about the inherent risks associated with gambling and implement measures to mitigate these risks. Upholding the highest standards of consumer protection, ethical conduct, and responsible gaming practices is paramount. This encompasses measures such as disclosure of legal name, address and contact details of the licensee, transparency in user fees, offering counselling services for at-risk users, and providing self-assessment tools to gauge the potential risk of gambling disorder in users.
- **Transparency & fairness:** Licensees must uphold transparency and fairness in their operations by disclosing essential information to users. This includes details regarding rules, prizes, winner determination, winning probabilities, and the grievance redressal mechanism. Additionally, obtaining external certifications for consumer protection measures, such as random number generators and measures to prevent bot usage, would ensure fairness and impartiality in service delivery.
- **Technology-driven regulation:** Collaboration between industry stakeholders and state authorities is paramount for development of technology driven tools to mitigate user harms and build safeguards against risks like exposure to inappropriate content. Licensees should leverage technological solutions for periodic warnings for users' time and money spent, monitoring user behaviour to identify potential risks of gambling disorder, in-built app options for users to limit time and money spent and self-exclusion and verification of users' age through know-your-customer procedures, among others.
- **Financial integrity:** Licensees must employ strict security measures including know-your-customer procedures, user verification, controls and preventive measures to detect and prevent any use of their services for money laundering, terrorist financing and fraudulent activity.

Conditions for licence issuance:

- **Onshoring requirements:** Only companies incorporated in India or foreign entities with a registered office located in India should be eligible for licensing. To ensure substantial physical

presence in India, applicants must provide detailed information on corporate structure, such as significant beneficial ownership, copies of GST returns, and contact details of key office holders.

Leveraging provisions of the Integrated Goods and Services Tax (Amendment) Act, 2023 is essential to online gambling and betting regulation. The act mandates a physical presence or representatives in India for enforcement purposes, and can be instrumental in enforcing onshoring requirements. It empowers the central government to block access to apps and websites of operators who fail to meet this requirement. This regulatory infrastructure may be used by the model law to enforce onshoring requirements on offshore gambling and betting websites.

Onshoring requirements for gambling and betting operators may be similar to the mechanism used by the Financial Intelligence Unit (FIU) for the registration of virtual digital asset service providers (VASPs) in which the FIU demands evidence of their physical presence within India. VASP executives must present documents as proof of adequate presence in the country through a departmental meeting in which they furnish documents and relevant information for registration under the Prevention of Money Laundering Act, 2002 (PMLA).²⁷

- **Anti-money laundering measures:** The proposed model law should reiterate that betting and gambling operators are subject to the provisions of the PMLA.²⁸ This entails conducting know-your-customer procedures, customer due diligence, record maintenance, monitoring of suspicious transactions, and reporting to the FIU.²⁹ The establishment of a licensing framework and robust enforcement mechanisms will enhance compliance with these obligations and mitigate the risk of money laundering. Additionally, licensees should be prohibited from accepting unbacked crypto asset transactions, or ones through physical channels, and non-electronic modes of cash transfer.
- **Responsible gaming measures:** The model framework can introduce additional obligations on licensees to mitigate the harms associated with gambling measures may include:
 - Age restrictions: Prevent minors from accessing their services through measures like age-gating.
 - Harm reduction: Disallow users to gamble beyond their means. Information obtained about a user's financial status, debt, etc., during the risk analysis carried out as part of the customer due diligence can be used for this purpose.
 - Fairness: Disclose the rules, prizes, manner of determination of winners, etc., in adequate detail.
 - Voluntary limits: Implement technical measures allowing users to impose account-level protections to their gambling conduct, such as limits on their time and money spent.
 - Mandatory limits on stakes: Implement a 'maximum stake amount' which will be an amount determined by each state commission beyond which a user cannot deposit money with an operator during a specified period.
 - Player monitoring: Monitor player behaviour through gambling conduct such as time and money spent and maintain records of users at risk of problem gambling.
 - Self-exclusion: Provide users the option to self-exclude from their gambling services and provide the state gambling commission with a list of self-excluded users periodically.
 - Restrictions on credit: Licensees will not allow credit cards or provide credit to users. Users will not be allowed to maintain negative balance.

- 2. Responsible advertisement:** Licensees must adhere to advertising guidelines issued by the Ministry of Information and Broadcasting and consumer protection authorities. State gambling commissions can oversee compliance with these guidelines and have the authority to establish additional guidelines tailored to the socio-economic contexts of the state.
- 3. State Gambling Commission:** A state-level gambling commission tasked with enforcing the provisions of the model law is essential. The commission would be responsible for setting eligibility norms, licence conditions, issuing licences, investigating and taking action against violations of the model law and licensing conditions, and developing codes of conduct for licensees. Detailed powers and duties of the state gambling commission are proposed in **Annex I**.

To ensure comprehensive compliance, state gambling commissions should collaborate with each other and other regulatory authorities for various purposes, including:

- Self-exclusion registers: State gambling commissions should maintain a register of users who have self-excluded, and coordinate with other state gambling commissions to ensure effective implementation of self-exclusion measures.
 - Coordinated action against licensees by commissions: State gambling commissions should exchange information in respect of action taken against a licensee, such that other states' commissions may consider similar action.
 - Coordination with administrative authorities under other laws: The state gambling commission's powers to take enforcement action will be for breaches of the gambling law or licensing conditions. In cases of violations of obligations for which there is a separate administering authority, like KYC, cybersecurity, privacy or consumer protection, etc. – the state gambling commission will report such instances to the relevant authority and cooperate with them to enhance compliance.
- 4. Criminalising non-compliance:** To address non-compliance effectively, the law will classify unlicensed operation of online betting and gambling as illegal. The law should enact penalties for unlicensed operators, including fines and potential imprisonment for repeat offenders.
 - 5. Central intervention for website blocking in some cases:** Under Section 69A of the IT Act, the central government holds authority to block URLs. This authority is enforced through directives by MeitY to the Department of Telecommunications, which in turn issues blocking orders to internet service providers.³⁰ MeitY's authority to issue these directives extends to app stores (such as Google Play or Apple's App Store) for delisting illegal gambling apps.³¹ This mechanism can be leveraged by state gambling commissions to enforce the model law. Comparable to the enforcement strategies in Maharashtra and Telangana for blocking online piracy, state gambling commissions could be empowered to make blocking requests.

The Telangana Intellectual Property Crime Unit and the Maharashtra Intellectual Property Crime Unit are divisions of state cybercrime departments, responsible for enforcement of intellectual property rights. They are empowered to request the central government to block access to pirated websites.³² The Tamil Nadu Prohibition of Online Gambling Act, 2022 employs a similar mechanism. It empowers the enforcement authority under the act (the Tamil Nadu Online Gaming Authority) to make recommendations to the state government for blocking access to illegal gambling websites. Based on such a recommendation, the state government has the power to request the central government to

block access to the website under Section 69A. International jurisdictions also apply similar mechanisms against illegal gambling operators. For instance, in Australia, the country's Communications and Media Authority retains the powers under its Telecommunications Act, 1997, to request internet service providers to disrupt illegal online gambling services.³³

However, the limitations of website blocking as an enforcement tool must be recognised. While an ISP or an app store may be able to block nationwide access to a website or an app, they are not equipped to block access at the level of an individual state.³⁴ However, a gambling service that is illegal in one state may not be illegal in another. For instance, a state may implement stricter licensing conditions than the model law.

Therefore, the model law should primarily suggest monetary penalties on licensees. State gambling commissions may only be empowered to request blocking for repeat offenders. For offshore operators without a physical presence in India, however the law may grant state commissions the authority to request the central government for a ban in the first instance of provision of services within their jurisdiction.

Annex I | Proposed Powers and Duties of the State Gambling Commission

Proposed framework	Proposed safeguards
Establishment and composition	<ul style="list-style-type: none"> • The state government will appoint the state gambling commission. • It will be a quasi-judicial body and qualify as ‘state’ under Article 12 of the Constitution of India. • State governments will have the power to decide the composition of their respective state gambling commissions, provided that there is adequate representation of persons with expertise in counselling services for gambling harm.
Licensing duties	<ul style="list-style-type: none"> • Review and approval of licence applications and collection of licence fees. • Formulation of prerequisites for grant of licences. • Reviewing laws on gambling and betting and making recommendations to the appropriate authority in the state government. • Identifying gaps in the state gambling law and licensing conditions especially in light of technological developments. • Maintenance of a publicly available list of valid licensees. • Monitoring licensees’ compliance with the law and licensing conditions.
Investigative powers	<ul style="list-style-type: none"> • The state gambling commission will have investigative powers in cases of possible breaches of gambling law or licence conditions by licensees. • Investigations may be suo motu or through a complaint mechanism established by the state gambling commission for users. The state gambling commission can issue notices to licensees and require them to adduce evidence and documents. • The state gambling commission will have powers of entry and inspection of licensees’ premises. • Licensees will be obligated to provide necessary equipment, services and facilities for inspection by the commission, at their own cost. • The state gambling commission will be required to commence inspections after giving reasonable notice to licensees, unless such notice will defeat the purpose of the inspection. • The state gambling commission will have the power to seize and confiscate equipment, documents and records of a licensee if it has reason to believe that the state gambling law or license conditions have been violated by the licensee, unless the licensee demonstrates compliance with the law and/or licensing conditions.

	<ul style="list-style-type: none"> • The commission will not confiscate equipment, documents or records without giving written notice to the licensee. The written notice will contain grounds on which the confiscation is proposed. • The commission will not confiscate equipment, documents or records without giving the licensee a reasonable opportunity to be heard. • For investigation and inspection purposes, state laws can prescribe a minimum period for document and data preservation.
<p>Power to take action against licensees</p>	<ul style="list-style-type: none"> • The state gambling commission will, if it determines that a licensee has breached gambling law or licence conditions, have the power to: <ul style="list-style-type: none"> a. Suspend the licence; b. Alter the licence conditions; c. Revoke the licence; and/or d. Impose financial penalties on the licensee. • The state gambling commission will maintain a public record of all penalties imposed by it.
<p>Maintenance of common register of at-risk users and users who self-exclude</p>	<ul style="list-style-type: none"> • The state gambling commission will maintain a common register of all users identified as being at-risk for gambling harm and who have availed of self-exclusion mechanisms provided by online gambling operators. • Different state gambling commissions will cooperate with each other to exchange information about lists maintained by them.
<p>Duty to deal with social effects of gambling</p>	<ul style="list-style-type: none"> • Monitoring and research of the socio-economic effects of gambling and betting harms. • Developing codes of conduct for licensees on matters of responsible gambling, age-gating, transparency, fairness in online gambling, financial safeguards, advertisement, consumer protection, cybersecurity and user privacy. • Spreading awareness about gambling laws, policies and the socio-economic harms associated with gambling.

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