

India

Free of its moorings?

India may have an extremely limited gambling market, but what is there is flourishing. However there are changes ahead – after 20 years moored in the Mandovi River, Goa's famous floating casinos are due to be moved to pastures new, whilst India's rather ambiguous laws surrounding the online and sports betting markets continue to be discussed.

India is emerging as one of the world's economic success stories. It holds a position as the sixth largest economy whilst the gaming industry has become one of the fastest growing segments despite the fact most forms of gambling are banned.

Legal gambling in India generates revenues of around US\$360m per year from a turnover of around \$20bn. These revenues are predicted to top US\$1bn by 2021.

There are limited gambling opportunities however. Casinos exist only in two States whilst sports betting and online gaming rules are sketchy to say the least.

The gambling law in India is governed by the colonial era Public Gambling Act of 1867 which

prohibits public gambling and this applies to all States, except a handful which have their own laws to permit certain types of gambling.

Gambling in India is very much part of the culture and history and the ancient kingdoms took part in gambling activities regularly, so much so it became an important feature of the Hindu religion. Legend has it that in 1500BC Yudhishtir gambled away his kingdom, his wealth, his brother and eventually his wife during a game of dice with King Shakuni.

The urge to gamble amongst the Indians is strong. Dice has been passed down through the ages. By the 15th century a well structured and legislative system was in place regarding gambling and gambling houses were legalised whilst the King took a slice of the profits.

By the 18th century cricket took off alongside a gambling boom. But this took its toll on society and despite the benefits taxes brought, the British Empire believed that by banning gambling the Indian economy would strengthen.

So at federal level gambling was prohibited via the 1867 Public Gaming Act which still exists today. This banned all forms of gambling except horse racing, rummy and lotteries.

In 1949 the Constitution of India gave individual States the right to legislate and make policies relating to gambling. To date most of the 36 India States have only made laws against gambling although there are a handful of States/Unions which enacted their own legislations mostly permitting 'games of skill.'



The Goa, Daman and Diu Public Gambling Act of 1976 is the most significant. This is one of only two State legislations which permits casinos and other games of chance. Later amended in 1992 and 1996 it authorises electronic amusement/slot machines in five star hotels and table games onboard offshore vessels. A further amendment in 2012 enabled the State to appoint a Gaming Commissioner.

The Sikkim Casinos (Control & Tax) Act 2002 meanwhile authorises the government of Sikkim to grant licences to operate landbased

casinos with an amendment in 2016 which banned locals from playing in these casinos.

Sikkim also launched the first Indian legislation to permit and regulate online gaming via the Sikkim Online Gaming (Regulation) Act of 2008 (amended in 2009 to add sports betting). This permits casino games and sports betting online. However in 2015 the government restricted this offering to physical premises, 'gaming parlours', via intranet gaming terminals within the State. Meanwhile the Nagaland Prohibition of Gambling and Promotion and Regulation of

Online Games of Skill Act 2015 defined 'games of skill' and permitted such via card based games, virtual sports and quizzes and this includes poker, rummy, virtual sports and fantasy games. There are no casinos operating but Nagaland remains the only State to grant a licence for an online poker operator.

Gambling is still a huge taboo subject in communities across India although it hasn't sapped their appetite for gambling and there is a huge underground market of penny stake games on street corners and card parties.

Essential information and facts about India:

Capital	New Delhi
Total Area	3,287,263 sq.km
Population	1.29 billion
Median age	28.1 years
Religion	Hindu 80%, Muslim 14% plus Christian and Sikh
Ethnic Groups	Indo-Aryan 72%, Dravidian 25%, Mongoloid and other 3%
Languages	Hindi 43% + others.
Currency	Indian Rupees
Government type	Federal Parliamentary Republic
Chief of State	President Ram Nath Kovind (since 2017)
Head of Government	Prime Minister Narendra Modi (since 2014)
Elections	President elected by members of parliament for five year term (no limits). Next election is due in 2022. Prime Minister is elected by Lok Sabha by members of the majority party.
Unemployment	6 per cent
Tourism	10 million foreign tourists



The idea is to move the floating casinos, one per month to the port in Calangute which is a town in the west of Goa and home to Goa's flagship and most commercialised beach, lined with restaurants and bars. Calangute is called the Queen of Goa with its 16km beach stretching from Baga to Candolim on the shores of the Arabian Sea. The Aguada Fort was built in the 1600s under Portuguese rule.

GOAN CHANGES AHEAD

The floating casinos are a big attraction in Goa as the State is one of only two permitted to operate casinos. But in October last year the Corporation of the City of Panaji (CCP) decided not to renew the trade licences for the six offshore casinos in Goa when they come up for renewal in April-June 2020 period.

The casinos currently operate in the Mandovi River in Goa. This in reality will force the casinos to move out of the Panaji jurisdiction this year. At the end of 2019 the Goan government had still not made a final decision on where to move the offshore casinos.

The casinos have been a pawn in a fight between State level politicians for a while. Residents have continually complained that the casinos bring problems with traffic, prostitution, parking and social issues.

Protests were held in August from residents who

wanted the casinos moved whilst BJP leader Atanasio Monserrate promised to remove the offshore casinos within 100 days of his election. An adventurous Statement from Monserrate (nicknamed Babush), who joined the Bharatiya Janata Party in July 2019.

Aam Aadmi Party (AAP) leader Valmiki Naik was quoted as saying: "Monserrate's promise for 100 days was a joke. Even if he were to fulfil it, it would not make a difference. When you want to clean the house, you do not take the garbage from one room to the next. We want the casinos out of Goa, not shifted from the river."

Aguada Bay in Calangute has been suggested as a stopgap for the floating casinos until a designated landbased gaming zone can open at the new international airport in Mopa (northern part of Goa). It is thought the casinos will eventually be housed here although is currently facing opposition from locals.

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month to the port in Calangute which is a town in the west of Goa and home to Goa's flagship and most commercialised beach, lined with restaurants and bars. Calangute is called the Queen of Goa with its 16km beach stretching from Baga to Candolim on the shores of the Arabian Sea. The Aguada Fort was built in the 1600s under Portuguese rule.

Goa's Minister for Science & Technology, RDA and Ports and Waste Management, Michael Lobo, wants the Corporation of the City of Panaji (CCP) to withdraw the resolution. The CCP caters to the civic needs of Goa's capital city Panjim under the Mayor Uday Madkaikar.

There is talk of eventually locating the casinos at a 232 acre planned commercial zone which will join the new Mopa International Airport. The idea being the casinos will target tourists, particularly those from foreign nations. It could mean a huge boost in gaming revenue predicted to rise to \$1bn in GGR if the casinos move onshore. At the moment Goa casinos generate



around \$150m in GGR each year.

Mopa Airport is still under construction in north Goa, about 35km from Panaji. The \$500m airport is being developed by the government of Goa and GMR Goa International Airport Limited in four phases and is expected to be completed by 2021 after further environmental studies impeded work on site.

It will become India's second largest airport, second only to Delhi's IGI Airport. The airport will cater for 4.4 million passengers during the first phase and over 13.1 million by the end of the fourth phase in 2045.

Goa's current airport at Dabolim is operated at a military airport owned by the Indian Navy although military and civilian operations share a

common runway. It has a capacity to serve around four million passengers a year. Although Dabolim can cope with the current tourist flow, it is estimated that Goa will see over 10 million tourists by the year 2035.

The navy restricts hours of commercial operations leading to congestion and this hinders long term growth and an approval for a second airport, although granted back in the year 2000, has taken this long due to land issues and local litigation. In 2014 the project received approval and the first stone was laid at the end of 2016.

The Chief Minister Pramod Sawant announced last year Mopa Airport's commercial and recreation facilities at the airport will include eco resorts, hotels, restaurants, shopping and

casinos. The casinos will only be open to airport commuters. In 2019 the Goan Government collected Rs411 crore in revenue from the offshore and onshore casinos compared to 2013 figures of Rs135 crores.

Meanwhile there are still calls for a casino policy and appointment of a gaming commission for the State of Goa.

The delay in setting up such a system has been questioned by members of parliament and in the summer last year Sawant said the set up was in the 'final stages' of planning.

Sawant has also suggested that locals be banned from the Goan casinos. The Goan casinos make up five per cent of the State's annual revenue for the government.



Goa – Pearl of the East

Goa's long history as a Portuguese colony prior to 1961 is evident in its churches and tropical spice plantations

Situated in the Malabar Coast, Goa is known as India's 'Pearl of the East' with Gothic churches, crumbling ports and palm fringed beaches. With a 131km coastline and tropical climate it has become a popular hot spot for rest and relaxation with around 29 beaches.

Today Goa sees over eight million tourists annually alone, of which seven million are domestic and the remaining one million foreign, with visitors from Russia and the UK the highest numbers. It attracts affluent North Indian families and has a roaring economy. There are over 3,800 hotels/guest houses in Goa offering over 73,600 beds. The Mandovi River is one of two large rivers (the other being Zuari) and there are three major cities, Marmagao, Madgaon and Panaji which is the capital city.

Goa has been promoting casino tourism for the last couple of decades. It's been a well needed economic boost especially in the aftermath of the mining ban which saw the government lose substantial revenues. The first casinos arrived in Goa back in 1992 after William Britto, the first and only Goan to hold a casino licence, persuaded the government to amend the Public Gaming Act 1976 to permit casino gambling.

Today there are eight electronic casinos in Goa which operate from five star resorts along the coast. Later in 1998 offshore casinos were permitted and today there are six offshore casinos anchored in the Mandovi River. These are:

Casino Pride – this vessel offers 30,000sq.ft over three floors of gaming with around 40 table games. It attracts Indian high rollers who come to play Indian Flush and also hosts poker tournaments. It is operated by the Casino Pride Group which operates a total of four casinos India – two floating casinos in Goa and two onshore casinos in Goa (Casino Paradise in the Neo Majestic in Porvorim and Casino Palms in La Calypso, Baga). It has a fifth casino in Nepal.

Casino Pride 2 – this is the Casino Pride Group's second floating casino. Previously known as the Casino Carnival (owned by Marriott Resort and Spa), this smaller casino was sold to the Pride group in 2014 and renamed. It has 27 tables over two floors.

Deltin Royale – this ship offers 24,000sq.ft of gaming space spread over five decks with a total of 964 gaming positions across 120 tables and 60 slots. There is a dedicated poker room and exclusive room for Indian Flush. The casino began operations in 2013 and also boasts India's largest poker room.

Deltin Caravela – this was the first offshore live gaming casino to open and is named after the Portuguese ship that came to Goa in the 16th

century. It is the only floating casino/hotel in India and was newly refurbished in 2016. The Caravela is a more intimate casino aimed at serious gamblers and there are 217 gaming positions with 20 tables.

Deltin Jaqk – previously called the Casino Royale this floating casino began its operations in 2008 and was renamed in 2013 and has three floors of gaming and 431 gaming positions via 54 tables and 15 slots plus separate VIP rooms.

Big Daddy Casino – owned by Golden Globe Hotels Private Ltd it is the newest casino which opened in May last year. It is a 72m long and 24m wide Panamanian vessel and is touted as the biggest and most modern offshore gaming destinations in Asia and offers three levels of gaming with 110 tables and 900 slots with a VIP gaming room on one floor with no-limit tables.

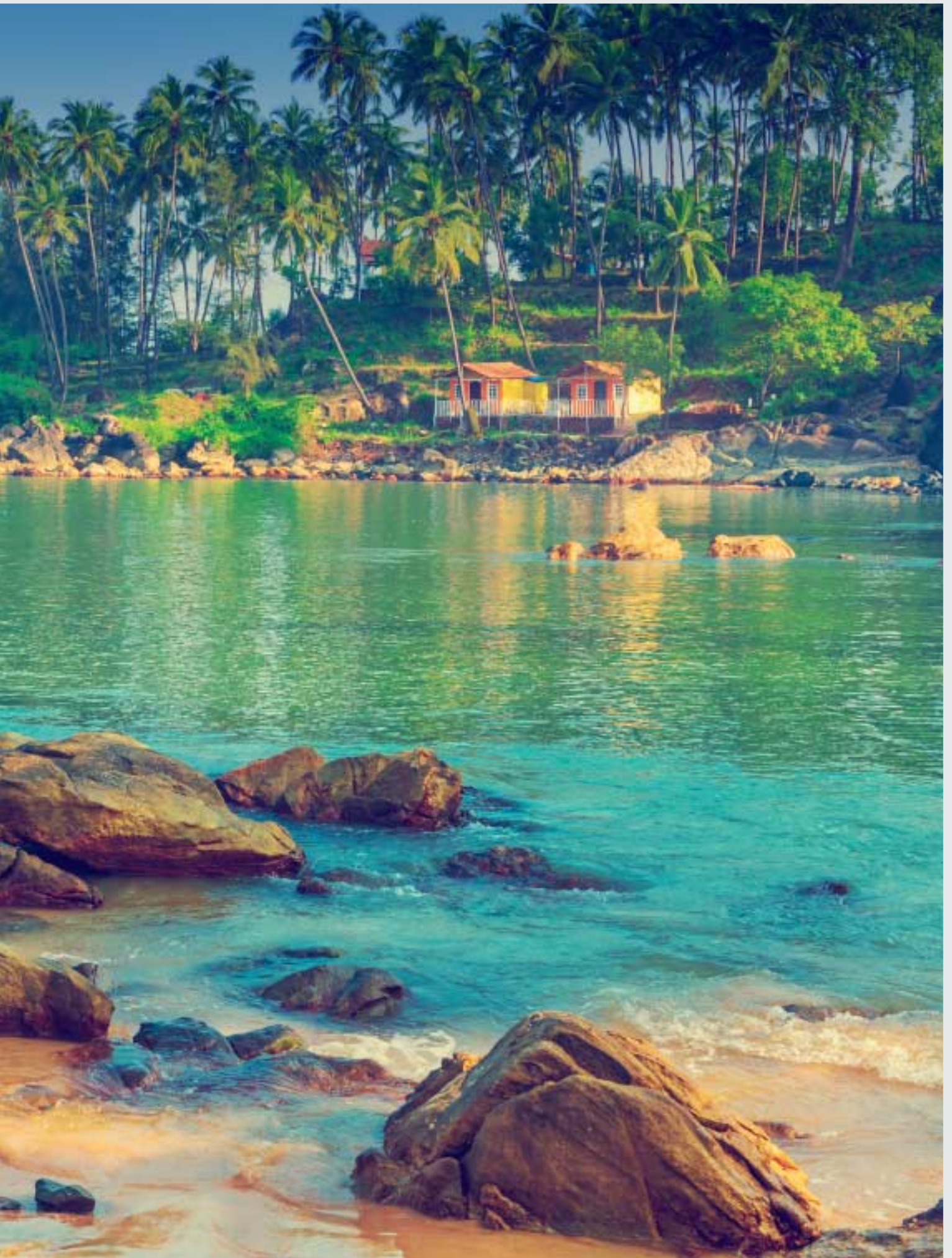
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Golden Globe Hotels is owned by Gopal Kanda who hit the headlines recently after winning elections in the State of Haryana (bordering the city of New Delhi). Kanda was formerly a minister in Haryana back in 2009 but lost in 2014. He stems from a rags-to-riches type background having made his money in real estate, MDLR Airlines and latterly Golden Globe Hotels which operates hotels and malls in Gurgaon and the offshore casino in Goa.

He has been involved in several controversial issues the biggest being the allegation that he abetted the suicide of a young air hostess who worked at MDLR. She committed suicide in 2012 whilst the air hostesses mother killed herself six months later also blaming Kanda in her suicide note.

An initial charge of rape was later dropped and Kanda was granted bail in the abetment to suicide case in 2014.





The State of Sikkim legalised gambling in 2009 in bid to lure visitors and investors to this mountainous region and it is the only State to date to offer landbased casino gambling (table and slots) whilst Goa can offer such games only on offshore vessels and electronic casinos onshore. It is also the only Indian State to offer online gaming and sports betting even if this is through intranet gaming parlours.

Sikkim, known as the kingdom of flowers, is a landlocked State located in the eastern Himalayas bordering Nepal, Tibet, Bhutan and West Bengal and is located just below Mount Khangchendzonga, the third highest mountain in the world.

It has around 610,000 inhabitants and is the least populous State in India and the second smallest State after Goa in terms of total area. It is however a popular tourist destination due to its culture, scenery and biodiversity. It also has the only open land border between India and

China and is the only State with an ethnic Nepali majority. Its economy today is dependent largely on agriculture and tourism.

There are three casinos here:

Casino Sikkim was the first casino in Sikkim and was launched at the 72 room Hotel Royal Plaza in March 2009. As the pilot project was exempt from the five star hotel rule it was housed in a three star property (which was to be later upgraded to a five star) and run by Teesta Rangit Private Ltd (TRPL).

It has 15 slots and five table games. The hotel is run by Sarovar Hotels and Resorts.

The second casino, **Casino Mahjong**, opened back in 2011 and is owned by Trio Ventures Private Limited and located at the Mayfair Spa and Resorts on the outskirts of Gangtok.

The **Deltin Denzong** opened in 2017 and is located in the Denzong Regency and operated by the Deltin Group. The casino has 200 gaming positions in a gaming area of more than 15,000sq.ft. The casinos all have a cover charge which varies depending on the casino.

There's no financial data but estimations say around Rs20 crore a year is handed over the Sikkim State from the three casinos.

Sikkim wants to attract more casino high rollers



as gambling has been off limits for locals since 2016 when the Sikkim Casinos (Control and Tax) Rules banned locals from entering and playing in casinos.

But the problem has always been connectivity. As a landlocked area the National highway is the only road which connects this mountainous area to the rest of India and the Pakyong Airport, about 33km east of Gangtok, only opened in September 2018 and has not been the solution the State originally hoped for.

Pakyong Airport finally opened some nine years after the first foundation stone was laid. It is Sikkim's first and India's 100th airport. Located on top of a hill, 4,600ft above sea level, it was constructed by the Airports Authority of India and is only about 60km from the Indo-China border.

Previously visitors had a tedious 125km journey (five hour drive) from Bagdogra which was the nearest airport in West Bengal or Paro Airport in

Bhutan. But the airport is still not fully functioning. In June last year SpiceJet, the airport's sole airline providing commercial passenger services, ceased the once a day Kolkata-Pakyong route citing 'operational constraints'.

SpiceJet is an Indian low cost airline and the second largest in the country operating 628 daily flights to 63 destinations. It suspended flights in June last year to Pakyong "until further notice" due to "unpredictable weather resulting in low visibility and hampering flight operations." The monsoon season was expected to aggravate the situation.

SpiceJet was initially awarded two routes for Pakyong – one from Kolkata and one from Delhi (which was never launched) in August 2018.

Sikkim's new Chief Minister of Sikkim, Prem Singh Tamang, is now calling for further changes to help visitors access the State. He is requesting a 200km highway to be built between

Kalimpong and Siliguri whilst trying to open the railway between Seboke and Rangpo.

Meanwhile the Sikkim Online Gaming (Regulation) Act was passed in 2008 to regulate online gambling and as such became the first State in India to do so.

The law recently amended in 2015 restricts the offering of online games and sport games within the State and via physical game parlours.

In 2016 Golden Gaming International obtained a licence to operate online gaming (poker) and sports betting in the State and the situation is now a little out of control. Golden Gaming now runs three gaming parlours, two in Gangtok and a third in Rangpo.

There are stories of "rampant" betting, vandalism and big social problems in Gangtok and there is talk of banning locals now from betting. This would require an amendment to the Sikkim Online Gaming (Regulation) Act.



Sikkim

Kingdom of flowers

Part of the Himalayas, the area has a dramatic landscape that includes India's highest mountain, 8,586m Kangchenjunga



Daman

Culture and Cuisine

Daman is a city in the union territory of Daman and Diu, on India's west coast. In the north, St. Jerome Fort, also known as Nani Daman Fort, recalls the area's Portuguese colonial past.

Daman and Diu is a union territory divided by the Daman Ganga River in two parts on the west coast of India. It's a popular tourist destination with spectacular scenery and architecture and a favourite nightlife spot with restaurants, pubs, dance bars, theatres and overnight activities on the beaches. The lure of cheap and available alcohol is also a huge pull.

Daman is the only State to have approved legislation alongside Sikkim and Goa but unlike the other two States it hasn't yet authorised any operator to begin casino activities.

Delta Corp filed a petition in 2018 with the Bombay High Court against various branches of the government of Daman and Diu over a delayed casino licence. The company has applied for a licence to install and operate slots at the Deltin Integrated Resort, which opened back in 2014.

The resort offers a five star 176 room hotel and is destined to be India's only integrated casino resort of its size in India spread across 10 acres. It is the first and only five star hotel in Daman.

Delta planned to install up to 1,200 gaming positions at the resort with 60,000sq.ft of gaming space.

Delta Corp Ltd already owns and operates three offshore casinos and one landbased casino in Goa (Deltin Suites) and also a casino in Sikkim (Casino Deltin Denzong). The group also has a casino licence in Nepal for a project at the Marriott Hotel in Kathmandu and the right to

operate casinos on Jalesh Cruises in Mauritius.

The company also recently acquired Gauss Networks Private Ltd, which operates the online poker site Adda52.com and Adda52rummy.com the largest gaming company in India.

Delta Corp is India's only listed company engaged in the casino market. The company saw total income of Rs829.10 crore for the year 2018/19 (Rs636.28 crore in FY18). From this from gaming operations for the year 2018 (to March 2019) was Rs779.81 crore and Rs148.16 crore from its online skill gaming operations.

In the annual report for 2019 Chairman Jaydev Mody said: "The Indian economy is on a sustainable and higher growth trajectory. It grew by 6.8 per cent during FY2018-19 as per the Central Statistics Office, compared with 6.7 per cent growth in FY2017-18, propelled by rising private sector investment and consumption.

"With benefits of structural reforms kicking in, such as the Goods & Services Tax and bank recapitalisation, domestic demand grew and sustained the growth momentum. Today India

continues to be the fastest growing major economy, being in a sweet spot with the global economic landscape. Its US\$2.5 trillion economy makes it the world's sixth largest in terms of nominal GDP, with retail consumption set to grow by almost twice the GDP growth for the next decade.

"Entertainment is one of the fast growing industries and leisure is currently one of the most exciting sectors in India. Today we have achieved a pole position in the industry and have emerged as one of the fastest growing casino companies.

"With over 2,000 plus gaming positions we have well established our leadership in offshore and onshore gaming casinos in India. Today we hold three of the six offshore gaming licences issued in Goa, thus having dominated the gaming and entertainment space and having cemented our first mover advantage.

"We have further expanded our gaming capacities by adding casinos at attractive locations such as Nepal and Sikkim. In fact we are increasing the size of our Sikkim Casino, as we poise ourselves for a footfall increase in view of the recent operationalisation of Pakyong Airport.

"At Daman we have a presence by way of a luxury hotel, which is 'casino ready' as we await a government approval for operating a casino."



A CALL FOR CHANGE – ONLINE GAMING

Since 2018 the Real Money Games online sector has grown significantly in India. This is mainly down to the clarity on legality at various High Courts in the country plus a huge growth in the mobile phone market. Mobile phone usage has grown enormously over the last few years and this has had a big impact on the availability of online gambling.

A joint report by KPMG and the Indian Federation of Sports Gaming said online gaming revenues in India have doubled over the last four years and now reach Rs43.8bn (2018) and are forecast to reach Rs118.8bn by 2022.

This growth in online gaming activity is driven by the increase in the number of gamers which has increased tenfold over the last eight years. Mobile games have an 89 per cent increase in the share of revenues for online gaming compared to other devices.

The report says the growth is also the result of the increase in smart phones with the number of smart phone users in India estimated to be 530 million in 2019 whilst the mobile gaming market in India is expected to top US\$1.1bn by 2020 with the number of gaming users expected to grow to 638 million this year (2020).

There is now easy availability of affordable data

As one of the top five countries for mobile gaming in the world the Indian industry is already worth more than \$890m. Mobile phones have been a major contributor to the growth of the online gaming market and the number of game developing companies grew from just 20 in 2010 to around 250 in 2018 (of which 100 are RMG operators).

packs plus easy to use gaming apps have been developed. Women gamers are increasing in numbers whilst there has been an increase in development and marketing of gaming via mobile, console and computer games with a bigger choice.

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The All Indian Gaming Federation (IAGF) says India has 120 million gamers and the number has risen by 30 per cent over the last three years.

Meanwhile revenues have doubled in the last four years for the online Real Money Skill Gaming industry in India reaching Rs4,380 crore in FY18. However the government is still losing up to Rs19,000 crore in tax revenue every year due to illegal activities.

The key in India relating to the online sector is the difference between games of chance and games of skill. There is a strict prohibition on participating on games offering money as a prize but skill games are different.

The online gaming sector is mainly made up of Real Money Games (including mainly rummy, poker, daily fantasy and quizzing), Mobile Centric/Casual games (Candy Crush, Subway Surfers) and e-sports (FIFA, CounterStrike).

Questions still linger over these games as to whether these are gambling or games of skill. This coupled with ambiguous laws in certain



States leaves the market wide open.

Fantasy Sports, a skill based online sports game, has grown from around two million users in India back in 2016 to around 50 million in 2019 and is predicted to rise to 100 million by 2020. The number of Fantasy Sports operators has risen from 10 in 2016 to 70 in 2018 (according to the KMPG report).

Meanwhile e-sports is just developing in India and the number is expected to grow from around two million e-sport enthusiast players and two million occasional players to around 10 million by 2021. Various companies are waiting on the sidelines eager to invest and Indian companies have been raising venture capital over the last year or so.

Mobile Game Publishing company, Nazara Technologies recently acquired a 55 per cent stake in gaming solutions company Nodwin Gaming and plans to invest \$20m to develop e-sports in India over the next five years. There are no signs of the growth stopping.

But the main challenges for those RMG operators and game developers are the state wide regulations for the online sectors.

The All Indian Gaming Federation (IAGF) now wants the government to regulate and tax the online gaming industry under a centralised authority, rather than State laws. The lack of regulation is also causing socio-economic problems, match fixing scandals and reports of fraud.

CEO of AIGF, Roland Landers said: "The Indian gaming industry has witnessed a paradigm shift. The rapid growth in digital infrastructure, increasing smart phone affordability and penetration, expansion of the internet user base, declining data price, younger audience and evolution of digital and online gaming models have contributed to a surge in the number of online gaming players over the last couple of years.

"When we have regulation that governs different forms of online gaming, the grey market and its operators will eventually go out of circulation.

We hope we can achieve this in the next 24 months."

This call for change led to Senior Congress leader and MP for the district of Thiruvananthapuram, Shashi Tharoor presenting a private member's bill to parliament last year seeking to regulate online sports betting (see column).

He claims there is an urgent need for a statutory framework with government oversight to ensure service providers follow licensing conditions to curb the flow of black money. He proposed such a motion in his Sports (Online Gaming and Prevention of Fraud) Bill to look at sports fraud and the regulation of online betting activities.

He also called for the set up of an Online Sports Gaming Commission to govern the sector and issue licences and has proposed that foreign direct investment be permitted in this industry. The bill lapsed last year.

The bill was submitted after the Law Commission report called for regulation and legislation of the sports betting and gambling



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Roland Landers, CEO, AIGF

markets to bring more transparency to a growing industry.

The Indian Law Commission estimates the Indian gambling market to be worth US\$360m and predicted to reach US\$1bn by 2021. The commission has recommended that sports related betting be legalised.

The estimated size of the Indian betting market was worth US\$130bn in 2018 (US\$88bn in 2012) with the majority of revenue coming from sports betting.

In the commission's report (no. 276) outlining

the 'Legal Framework for Gambling and Sports Betting in India in 2018' a study was undertaken to deal with the illegal gambling market and also look at the match fixing controversies within the cricket sector. The thought pattern being if sports betting was legalised then the black market would reduce as current measures are proving to be ineffective. The questions raised were:

- Will legalising betting and gambling curb illegal activities?
- Will licensing help the government earn revenues and generate employment?

- Will legalising betting and gambling be morally acceptable in India?
- How to safeguard residents?
- If legalised should foreign companies be allowed to operate?

With a third of the Indian population said to live below the poverty line the problem lies in deciding if gambling and betting activities create a platform for individuals to spend money they simply haven't got. However corruption and illegal operations are rampant and there are problems in curbing such activities.

The gambling laws of India: Untangling the myriad of knots



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Two States which provide licences specifically for online gaming, are Sikkim and Nagaland. As per the Sikkim On-line Gaming (Regulation) Rules, 2009 ("Sikkim Rules"), a list of prescribed games such as Roulette, Black Jack, Poker, Poker Dice, including sports betting, may be offered for online play after procuring a licence for the same from the Sikkim government.

Betting and gambling find mention in Schedule 7 of the Constitution of India, where both are listed as State subjects, giving individual States the power to legislate on the same. Hence, several States have separate legislations regulating gambling and betting. This being said, numerous judgments issued by courts of law in India, have over time, put in place, a common jurisprudence governing the topic of betting and gambling. Additionally, most State laws on the subject have adopted a similar approach in regulating gambling and betting.

The Public Gambling Act, 1847 ("PG Act") is a central legislation which provides a basis for most of the State specific gambling laws. While the PG Act does not specifically define gambling or its elements, Section 12 of the PG Act exempts its applicability to any game of skill, wherever played. Similarly, most State legislations do not apply to games which predominantly involve an element of skill.

The distinction between a game of chance and a game of skill was analysed in the landmark judgement of the Supreme Court in *K.R. Lakshmanan v. State of Tamil Nadu* (AIR 1996 SC 1153). As per the judgment, the Supreme Court, while analysing Section 11 of the Tamil Nadu Gaming Act, 1930 (which is similar to Section 12 of the PG Act), Stated that a game of skill is one in which the element of skill dominates over the element of chance. Similarly, in the case of *State of Andhra Pradesh v. K Satyanarayana* (AIR 1968 SC 825), the Supreme Court held that rummy is a game of skill because the fall of the cards has to be memorized

and the game requires considerable skill in holding and discarding cards. In another Supreme Court judgement of *M J Sivani and Ors v. State of Karnataka* (AIR 1995 SC 1770), the court Stated that it is not necessary to decide whether a game is of skill or chance, in terms of mathematical precision.

Based on the aforementioned cases, and several of the State legislations in relation to gambling and betting, it is possible to list out the two main elements required for any activity to be categorised as gambling or betting:

- The element of placing a bet or a stake to take part in a particular game; and
- The element of winning the game based on an uncertain event or chance instead of predominantly depending on skills.

While most of the aforementioned legislations



prohibit gambling (except for games which are exempted on the basis of being games of skill) in common gaming houses, there are certain State legislations that legalise some form of gambling and issue specific licences to gambling establishments. Most of the State legislations, as well as the PG Act, were enacted much before the advent of online gaming, and hence mostly refer to gambling activities taking place in physical premises. This makes the applicability of such legislations on online gaming questionable.

However, certain States have enacted laws specifically for online gambling and sports betting. Such legislations also regulate games involving real money and provide for licensing requirements.

Most States adopt a similar approach in regulating gambling and betting, where games of chance, that is, games which do not at least have a predominant element of skill are prohibited. However, two States prohibit all forms of gambling, even if it is a game which involves a predominant element of skill, namely, Odisha and Assam. Unlike most other State legislations, the Assam Game and Betting Act, 1970 ("Assam Act") and the Odisha Prevention of Gaming Act, 1955 ("Odisha Act"), do not create any exception for games of skills. The Assam Act does not permit staking of money or money's

worth on the happening or determination of an unascertained event, thing or contingency for or in relation to any game or sport etc. Similarly, the Odisha Act does not permit any play or game for money or other stake.

The State of Telangana takes a similar approach. The Telangana government issued the Telangana State Gaming (Amendment) Act, 2017 ("Amendment Act") to amend the provisions of the Telangana Gaming Act, 1974 ("Telangana Act"). As per the Amendment Act, the section that earlier provided the exception to games of skills in the Telangana Act has now been read down to be applicable to only such games which are only based on skills and do not have any element of chance. Additionally, the Amendment Act added the words 'online gaming with stakes' to the definition of gaming under the Telangana Act and amended the explanation of the definition to State that any act of risking money or otherwise on the result of an unknown event, including on a game predominantly based on skill, falls within the definition of betting and wagering.

Conversely, certain States legalise some forms of gambling which do not involve an element of skill and issue specific licences to the gambling establishments. The West Bengal Gambling and Prize Competition Act, 1957 ("West Bengal Act") specifically excludes 'games of cards like Bridge,

Poker, Rummy or Nap' from the definition of "gaming and gambling" and allows the organising of such games on procuring a permit from the Commissioner of Police in Calcutta or the District Magistrate or the Sub-divisional magistrate when such game is played in any place where the public may have access.

Similarly, the Goa, Daman & Diu Public Gambling Act, 1976 ("Goa Act") allows for certain prescribed table and board games on grant of licence, although the same are only permitted in offshore casinos. This being said, neither of these legislations envisage any licence for online gaming.

Two States which provide licences specifically for online gaming, are Sikkim and Nagaland. As per the Sikkim On-line Gaming (Regulation) Rules, 2009 ("Sikkim Rules"), a list of prescribed games such as Roulette, Black Jack, Poker, Poker Dice, including sports betting, may be offered for online play after procuring a licence for the same from the Sikkim government. Similarly, the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016 ("Nagaland Act") contemplates issuance of online gaming licences, but only for games of skill. The Nagaland Act lists down certain games of skill in its First Schedule, which may be updated by the government or by a representation of any party.

Online gaming and prevention of fraud: objects and reasons



Shashi Tharoor,
Member of Parliament

Shashi Tharoor is an Indian politician, writer and a former international diplomat who is currently serving as Member of Parliament, Lok Sabha from Thiruvananthapuram, Kerala, since 2009. He also serves as Chairman of the Parliamentary Standing Committee on Information Technology and All India Professionals Congress.



“India has a rich heritage with a diverse range of sports. Sports is not only an important source of entertainment, but it also imparts values of hard-work, discipline and of cooperation. It encourages social cohesion, and is an important catalyst in bringing societies together. Sport contributes to national integration and is a significant component of a country’s soft power.

The need of the hour is a comprehensive regulatory framework, overseen by a competent regulatory body, to check the flow of black money in online sports gaming, and to curb any illegal activities in connection with it. Apart from the check on criminal activities, the regulation of online sports gaming may encourage investment in the sector, which in turn can lead to technological advancements as well as revenue and employment generation.

The proliferation of sports also helps in creating employment, and enables people to make a living using their mental and physical skills and talents. The integrity of sports is essential to preserve its beneficial aspects. Sports integrity is increasingly under threat due to unabated acts of sports fraud and corruption.

The existing legal framework has failed to address the specific problem of sports fraud, and prosecutions involving allegations of manipulation of sports have collapsed due to statutory lacunas. Therefore, legislative measures are required to act as a bulwark against any attempt to manipulate a sporting event, and to stringently penalize any person involved in sports fraud.

The failure to report any information regarding the attempts to commit sports fraud must also be penalized, as such as omissions facilitate criminal activities. The legal mandate against sports fraud should also be applicable to citizens of India participating international sporting events, even though it may be held outside the territory of India. Sports is a major source of commerce and revenue for many entities, especially in the field of betting or gaming in connection with sporting events.

Studies estimate that the market for online gaming in India will rise to \$1 billion by 2021. The increasing commercial nature of sports, increases the possibility of vested interests manipulating sporting events in order to accrue financial gains. A complete prohibition on betting on sports has not been a successful approach in many jurisdictions, rather it has driven the market further into the black economy.

The law must adopt a regulatory approach and

establish a regulatory framework, to effectively demarcate the lines of permissible conduct in the field of betting or gaming in connection with a sporting event. Betting and gambling are State Subjects however, the Parliament of India has the legislative competence to enact a law to govern online betting and gambling in light of its powers under Entry 31 of List I of the Seventh Schedule to the Constitution, as explained in the 276th Report of the Law Commission of India.

The need of the hour is a comprehensive regulatory framework, overseen by a competent regulatory body, to check the flow of black money in online sports gaming, and to curb any illegal activities in connection with it. Apart from the check on criminal activities, the regulation of online sports gaming may encourage investment in the sector, which in turn can lead to technological advancements as well as revenue and employment generation. Hence, this Bill.”

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“With the advent of online gambling and the anonymity that it ensures, the gambling and betting activities have acquired a global presence. It has, therefore, become more challenging for countries to monitor or curb these activities.

Many countries that prohibit gambling have not been successful, particularly with regard to online gambling. The trans-national character of online gambling platforms calls for a much needed change in approach. With the changing times, there could



always be an option to have a re-look at the earlier approach of a complete ban.

The re-look, if any, may take into account the possible loss of revenue and employment generation that a regulation could bring about.

The size of the global gambling market has grown manifold in the last decade. This increase in size is naturally accompanied with an increase in revenue generation, that continues to rise every year. For example, Europe has reported a yield of 41 per cent GGY (Gross Gaming Yield) and Asia has approximately yielded 39 per cent.

In fact, Japan has the largest national betting market which is the result of permitting betting on horse racing, cycling, motorbike racing and boat racing, constituting a market twice the size of the United Kingdom. The same is also evident from the rapid increase in sales of Mainland China's State lotteries, recording a \$51.1 billion high in 2013.

According to experts, though land-based lottery and casinos still dominate the gambling market, online gambling and betting are showing rapid growth. Such activities, if properly regulated would ensure transparency in the market, as also strike at the underworld's control over the illegal and unregulated gambling industry.

Additionally, the revenue so generated by regulating and taxing betting and gambling, may become a good source of revenue, which in turn, could be used for public welfare.

Regulation would therefore, empower the authorised agencies to identify and prevent instances of gambling by minors and 'problem-gamblers' as well as save the public from any kind of inconvenience at the hands of the law enforcement authorities. It would also enable the Government to effectively curb the menace of black-money generation through illegal gambling.

There is merit in the argument that, had gambling been regulated at the time of the Mahabharat, Yudhishtir could not have staked his wife and brothers in a gamble. On the other hand, the argument made for 'revenue over morality' lacks merit. States such as Gujarat, Bihar, Manipur, Nagaland and Lakshadweep, prioritising societal morality over revenue collection, have put legislative embargos on the sale, storing and consumption of liquor; taking into account its ill-effects on the society.

Therefore, keeping in mind that the Indian society has always frowned upon gambling, considering its self-destructing capabilities and pernicious nature, it is most likely for the Indian people to choose morality over revenue in matters of gambling too.

Gambling has been proven to result in financial losses, causing an adverse impact on one's economic State, personal life and social life. Such activities affect the vulnerable sections of the society in unimaginable and often, irreparable ways.

Further, in an unregulated environment, inherent greed and corruption result in

increased criminal activity. One of the major drawbacks of illegal gambling and betting activities is loan-sharking, i.e. taking loans at exorbitant rates for gambling. Aberrational behaviour sprouting out of compromised individual and social ethics is also a common side-effect of unchecked and unregulated 'betting and gambling', ultimately weakening the moral fibre of the nation.

The existing policy of the Government (National Sports Development Code of India, 2011, etc.), the current socioeconomic atmosphere in the country and the prevalent social and moral values do not encourage betting and gambling. Accordingly, the Commission reaches the inescapable conclusion that legalising betting and gambling is not desirable in India in the present scenario. Therefore, the State authorities must ensure enforcement of a complete ban on unlawful betting and gambling.

However, incapability to enforce a complete ban has resulted in rampant increase in illegal gambling, resulting in a boom in black-money generation and circulation. 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, horse racing) market, regulating illegal gambling and introducing stringent and overarching regulations."