



DISSERTATION

ON

**Analyzing the Emerging Patterns of Digital Gambling in the
Light of Anti-Gambling Laws in Bangladesh**

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Submitted To:

Riad Mahmud
Senior Lecturer
Department of Law
East West University

Submitted By:

Deepan Biswas Durjoy
ID: 2017-2-66-040

Date of Submission: 22 May, 2022

Consent form



Consent Form

The dissertation titled ‘Analyzing Emerging Patterns of Digital Gambling in the Light of Anti-Gambling Laws in Bangladesh’ was prepared by Deepan Biswas Durjoy. ID: 2017-2-66-040, submitted to Riad Mahmud, Senior Lecturer, Department of Law for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for the LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

.....

Signature of the Supervisor

Riad Mahmud
Senior Lecturer
Department of Law
East West University

Date:

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DECLARATION

I, Deepan Biswas Durjoy, Id: 2017-2-66-040, of Law at East West University, declare that this thesis and the material presented in it are my work and the result of my original research. I declare that the Research Paper titled: Analyzing Emerging Patterns of Digital Gambling in the Light of Anti-Gambling Laws in Bangladesh. Submitted by me as the requirement of East West University is my work. I am solely responsible for the content of this work. The research paper complies with the University rules against plagiarism. It has never been submitted for any other degree or publication at this or any other university.

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LIST OF ABBREVIATIONS

Short Form	Expansion
RAB	Rapid Action Battalion
CTTC	Counter-Terrorism and Transnational Crime
CID	The Criminal Investigation Department
BFIU	Bangladesh Financial Intelligence Unit
DMP	Dhaka Metropolitan Police
ICESCR	International Covenant on Economic, Social, and Cultural Rights
UDHR	The Universal Declaration of Human Right
PBU	Per Betting Unit
CIID	The Customs Intelligence and Investigation Directorate
BTRC	Bangladesh Telecommunication Regulatory Commission

LIST OF LEGISLATION

I	The Constitution of the People’s Republic of Bangladesh
II	Public Gambling Act, 1867
III	Dhaka Metropolitan Police (Amendment) Ordinance, 1976
IV	Penal Code, 1860
V	Contract Act, 1872
VI	Narcotics Control Act, 1990
VII	Money Laundering Prevention Act, 2012
VIII	Import Policy Order 2015-2018
IX	Digital Security Act, 2018
XII	Bangladesh Bank Regulation

ABSTRACT

People of all age groups worldwide enjoy various games, including gambling, for their amusement. The Constitution of Bangladesh promises to eradicate gambling in its Fundamental Principles of State Policy, and other secondary laws also aim to control and penalize gambling. The study aims to assess the current situation of Digital gambling in Bangladesh; highlight the existing laws regarding gambling in Bangladesh; examine the effectiveness and challenges of anti-gambling laws in Bangladesh and provide suggestions on concerning issues. This study has identified various challenges to legal aspects of gambling in Bangladesh. Finally, this study also suggested a comprehensive legislative, executive, and judiciary effort to control this illegal act.

Key Words: Digital Gambling, Public Gambling Act, 1867, Casino, Money laundering.

CHAPTER I:

INTRODUCTION

Bangladesh is one of the most densely populated countries on the planet. According to the constitution of Bangladesh, the state shall adopt effective measures to prevent prostitution and gambling.¹ But most of the existing gambling-related laws were enacted in the colonial period and are not equipped to avoid all forms of gambling in Bangladesh. The development of Bangladesh's telecommunications sector has resulted in internet access all over the country. Additionally, because of the growing usage of the internet, Digital Gambling has become more accessible to gamblers. Moreover, Bangladeshi gamers are free to use international online sports betting sites. Despite the existence of Anti-gambling laws, gambling is still repugnant in Bangladesh.² Surprisingly, gambling-related laws have not gone through required amendments though they are over 150 years old. Law enforcement agencies have to enforce the provisions of the Narcotics Control Act of 1990 and The Money Laundering Prevention Act of 2012 to arrest and detain in gambling-related cases due to a lack of proper gambling legislation. This paper's objective is to explain the emerging situation of digital gambling in Bangladesh, highlight existing anti-gambling legislation, and analyze their effectiveness regarding Digital Gambling in Bangladesh.

1.1.Literature Review:

At first, the paper will focus on the current situation of gambling and digital gambling in Bangladesh. Secondly, the paper will discuss the state's obligation toward the citizen to prevent gambling and the international perspective on how other countries deal with the emerging digital gambling pattern. Thirdly a brief discussion about the existing laws regarding Gambling and their effectiveness in preventing digital gambling, and the role of law enforcement agencies. Finally, this paper will focus on why existing laws in Bangladesh are not compatible enough to cope with the emerging pattern of digital gambling and suggestion for a comprehensive effort to deal with the current form of gambling.

¹ Article 18, The Constitution of the People's Republic of Bangladesh 1972.

²Hyder, Nayem AlimuL. "Scope and Challenges of Anti-Gambling Laws in Bangladesh." International Journal of Business, Social and Scientific Research (2019) Available At: https://www.academia.edu/41306128/Scope_and_Challenges_of_Anti-Gambling_Laws_in_Bangladesh [Accessed on: 15 April, 2022]

1.1.The Objective of the Study

In my thesis, I have tried to do a legal study on the overall scenario of Digital Gambling in Bangladesh. The study also embarked upon these specific objectives:

- To assess the Emerging situation of Digital Gambling in Bangladesh.
- To find out the obligation upon the state to prevent Gambling.
- To project the ambit and flaws of the existing laws regarding Gambling, especially In Digital Gambling in Bangladesh.

1.2.Methodology

This paper is qualitative in nature. The study was conducted from February to May in the year 2022. Here I embodied statues and books are primary sources, and blogs, newspapers, websites, cases, reports, and online journals are secondary sources of this research paper. Firstly, I tried to give an overview of the concept of digital gambling in Bangladesh then I tried to discuss the state obligation and international perspective. Then I put a brief discussion about the existing laws regarding Gambling, especially In Digital Gambling, and the role of law enforcement agencies. Finally, I put the findings on why existing laws in Bangladesh are not compatible enough to cope with the emerging pattern of digital gambling.

1.3.Research Questions

- ∞ What is the current situation of Digital Gambling in Bangladesh?
- ∞ Whether the existing laws in Bangladesh are compatible enough to cope with the emerging pattern of digital gambling?

1.4.Limitation of the Paper

In this research, time limitation was a big problem. The discussion on the topic of Gambling has its vast area and has many sides to focus on. Based on the following research questions, this research has been conducted. Four months is not much time to do a research paper based on gambling. I tried my level best to get out the final outcome from it with limited resources.

2. CHAPTER II:

DISCUSSION ON THE CONCEPT OF DIGITAL GAMBLING IN BANGLADESH

2.1.What is Gambling?

Gambling, betting, or staking something of value with the awareness of risk and the hope to gain profit on the outcome of a game, a contest, or an uncertain event whose conclusion may be determined by luck or chance or have an unforeseen impact due to the bettor's miscalculation.³ The gambling outcomes can be decided by various factors, including the entirely random behavior of tossed dice or the ball on a roulette wheel, physical skill, training, athletic prowess, or a combination of strategy and chance.⁴ The rules covering gambling games can often confuse the connection between the game's components, predicated on skill and luck, encouraging some players to manipulate the game.⁵

2.2.History of Gambling:

Gambling stretches back to Mesopotamia's Paleolithic period, before written history, with the earliest six-sided dice dating back to around 3000 BC. They were, however, based on astragal, which dates back thousands of years.⁶ In the first millennium BC, gambling establishments were common in China, and betting on fighting among animals was popular. Chinese lotteries and dominoes (forerunners of Pai Gow) originally appeared in the 10th century. In China, playing cards first appeared in the 9th century.⁷ Gambling has been established in Japan since the 14th century. Poker, the most popular card game associated with gambling in the United States, was developed from the 17th-century Persian game As-Nas. The Ridotto, the first reported casino, opened in 1638 in Venice, Italy.⁸

³ Cosgrave, J. (Ed.). (2006). *The Sociology of Risk and Gambling Reader* (1st Ed.) Available At: <https://doi.org/10.4324/9780203820070> [Accessed On 29 April 2022]

⁴ Glimne, Dan. "Gambling". *Encyclopedia Britannica*, 20 Feb. 2019, Available at: <https://www.britannica.com/topic/gambling>. [Accessed On 1 April 2022]

⁵ Ibid

⁶ David G. Schwartz, *Roll The Bones: The History of Gambling* (Casino Edition) Available At: <https://www.amazon.com/Roll-Bones-History-Gambling-Casino/dp/0615847781> [Accessed On 1 April 2022]

⁷ Ibid

⁸ Ibid

2.3.Elements of Gambling:

There are three main elements of Gambling.

1. Consideration: It is a legal term, which means here, each side puts up something of value⁹
2. A Prize: It indicates that the player has a chance to win something valuable.¹⁰
3. Risk: If a contest offers valuable rewards and requires participation with consideration, but the outcome is unknown, the chances of winning are determined by the result.¹¹

2.4.Classification of Gambling:

Various kinds of gambling can be found in different places of the world.

- Casino Games: Pull-tab games, Lotteries, Scratch cards, Mahjong, and Dead pool.
- Sports Betting: Cricket (All international matches, World Cup, all international and domestic T20 Leagues such as BPL, IPL, Big Bash, etc.) Football (World cup, Champion's League, UFFA, La-Liga Etc.), Hockey, Badminton, Kabaddi.
- Card games: Bridge, Teen Patti, Liar's poker, Lansquenet, Basset and Piquet.
- Dice-based Games: Liar's Dice, Pig, Passe-Dix, Backgammon, Hazard, and Threes.
- Carnival Games: Hanky Pank, The Razzle
- Coin-tossing Games: This is the most straightforward form of gambling. It includes only the Head and Tail.
- Two-up Confidence Games: The Shell game, Three-card Monte

⁹ Nelson Rose, Gambling and the Law: An Introduction to the Law of Internet Gambling. Available at: <https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1146&context=grj#:~:text=Gambling%20consists%20of%20three%20elements%3A%20consideration%2C%20prize%20and%20chance.> [Accessed 1 April 2022]

¹⁰ Ibid

¹¹ Ibid

2.5.The Emerging Situation of Digital Gambling in Bangladesh

The Public Gambling Act of 1867 regulates all sorts of gambling in Bangladesh. According to this act, all gambling activities in the state were banned except wagering or betting upon a horse race.¹² The Constitution of Bangladesh promises to eradicate gambling in its Fundamental Principles of State Policy,¹³ stating that the state has a responsibility to adopt effective measures to prevent gambling”¹⁴ It is binding upon the state’s obligation to take adequate measures to stop gambling. Because of the spread of the internet and easy internet access all over the country, Digital gambling has become very popular in Bangladesh. Any anti-gambling laws of the nation do not contain any provisions regarding computers and the internet. All the anti-gambling laws are only applicable within the territories of Bangladesh. Although there are no online sports betting sites registered in Bangladesh, Bangladeshi gamblers are free to access sites based in other countries.¹⁵ Gambling is licensed in other places, such as the United Kingdom and Canada. Several reputable companies offer registration bonuses, free bets, and other incentives to attract gamblers to place their bets online.¹⁶ Illegal betting, according to police, has recently taken a severe turn, engaging all parts of society, particularly the youth. Rickshaw drivers, Farmers, and day laborers are all being drawn into the illicit betting syndicates that have sprung up across the country.¹⁷ In Bangladesh, popular gambling sites include *Ixbet.com*, *9ninemickets*, *melbet.com*, and *linebet.com*.

2.6.Casino Gambling in Bangladesh

The status of casino gambling is unregulated. According to media reports, 60 illegal casinos in the capital are not regulated by law.¹⁸ Gambling regularly takes place at these casinos. According to reports of UNB those are located in New Market, Nayapaltan, Fakirapool, Dilkusha, Bank Colony, Arambagh, , Motijheel, Osmani Udyan, Bangabazar,

¹² Section: 1A, Public Gambling Act, 1867

¹³ Supra Note 1

¹⁴ Article 18, The Constitution of the People’s Republic of Bangladesh (Accessed 14 April, 2022)

¹⁵ Best Online Betting Sites in Bangladesh, Available at: <https://voiceofindiansports.com/best-online-betting-sites-in-bangladesh/>[Accessed on May 3, 2022]

¹⁶ Ibid

¹⁷ Rafiul Islam, Police Blacklist 12 Websites, The Daily Star, Available at: <https://www.thedailystar.net/frontpage/police-blacklist-12-websites-1330054>[Accessed on May 3, 2022]

¹⁸ RAB cracks down on illegal casinos, Dhaka Tribune, Available At: <https://archive.dhakatribune.com/bangladesh/dhaka/2019/09/18/illegal-casion-busted-over-100-held>. [Accessed 15 April 2022].

Kakrail, Gulshan Link Road, Segunbagicha, Uttara, Gulistan, Kalabagan, in Dhaka.¹⁹ Over the last several years, law enforcement agencies have conducted anti-corruption and casino operations against around 50 casinos. RAB conducted thirty; one was conducted by the Narcotics Control Department, and the others by the police. Approximately 275 persons were detained as a result of the operations.²⁰ Over the few years, RAB conducted 236 arrests and filed 32 charges.²¹ During the raid, RAB officials recovered 22 weapons, 277 rounds of ammo, several banks FDR Tk 166.27 crore, Tk 8.45 crore in cash, around 8kg gold, a large quantity of foreign currency, Tk 11.77 crore in bank cheques, narcotics, 135 other bank checkbooks, and gambling equipment..²² 180 men and women, including casino employees and gamblers, were caught during a raid by the RAB in the gambling at Fakirerpul Youngman's Club, Wanderers Club in Motijheel, and Muktijodhya Sangshad Club in Gulistan. But the gamblers could not be incriminated in the case under the Gambling Act.²³ The RAB arrested the owner of the Youngman's Club from his Gulshan residence. He was charged in a case under illegal arms, drugs, and money laundering-related laws.²⁴ DMP raided four clubs and six bars. The lawsuits were filed under the illegal arms, drugs, and money laundering-related acts during the raids.²⁵ The RAB investigated 14 casino-related offenses filed under the narcotics and firearms laws.²⁶ CID scrutinized 13 money laundering and embezzlement points.²⁷ However, it must be noted that neither statute Public Gambling Act, 1867 nor the Dhaka Metropolitan Police Ordinance 1976 contain the word "casino." During the legal process against casino gambling, law enforcement officials should follow all applicable laws and regulations. Also, there is no provision for importing casino instruments or other relevant items.²⁸ As a result, the tools are incredibly available. In most of the cases, due to a lack of proper

¹⁹ Ibid

²⁰ A year into casino crackdown: Assets worth over 400C confiscated from suspects, Dhaka Tribune, <https://archive.dhakatribune.com/bangladesh/2020/09/17/a-year-into-casino-crackdown-assets-worth-over-400c-confiscated-from-suspects>. [Accessed 15 April 2022].

²¹ Ibid

²² Ibid

²³ Ibid

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

²⁸ IMPORT POLICY ORDER 2015-2018, Ministry of Commerce Government of the People's Republic of Bangladesh. Available At: <https://basis.org.bd/public/files/policy/5e16509e92820Import%20Policy%20order.pdf>. [Accessed 15 April 2022].

gambling legislation, the law enforcement agencies filed lawsuits under The Money Laundering Prevention Act, 2012, and The Narcotics Control Act, 1990.

In addition, there are no digital casinos based in the country.²⁹ This doesn't stop many people from playing online casino games with relative impunity, knowing they're unlikely to be detected and even more unlikely to be arrested. Many foreign casino sites are freely available in Bangladesh, and the internet's widespread availability has dramatically improved Bangladeshis' access to these online casinos.³⁰ Blackjack, roulette, and baccarat are among the games played online by Bangladeshi gamblers. Many also opt to play live dealer games, which involve dealers broadcasting to screens via a webcam.³¹

2.7. Online Lottery in Bangladesh

The lottery is not considered illegal in Bangladesh. The lottery issued and authorised by the Bangladesh government is legitimate.³² According to Section 294A of Penal Code 1860, anyone who keeps any office or site to draw any lottery that is not a state lottery authorised by the government is subject to a six-month sentence, a fine, or both. Online lottery is another emerging form of online gambling. However, it is tough to testify to the authenticity of the lottery. Maximum lottery seller claims their lottery to be valid and approved by the government.³³ Online lottery is also not illegal in Bangladesh, but there are no local online lottery operators here, as the government doesn't grant licenses.³⁴ However, players from Bangladesh can easily access foreign online lottery platforms, such as USA Powerball, Superenalotto, Euro Millions online lottery, etc. Technology allows players to participate in online lottery games using various payment methods.³⁵

2.8. Gambling in Cricket:

In Bangladesh, cricket betting is mainly done through online betting platforms. Formats of cricket bets include total runs, subsequent dismissal, most match sixes, sessions run and

²⁹ Is Online Gambling Legal in Bangladesh? Available At: <https://www.indibet.com/news/sports/is-online-gambling-legal-in-bangladesh/> [Accessed 15 April 2022].

³⁰ Ibid

³¹ Ibid

³² Section 294A, Penal Code 1860

³³ Fahim Uddin Raihan Niloy, The Legality of Lotteries, The Business Standard (2022) Available At: <https://www.tbsnews.net/thoughts/legality-lotteries-152368> [Accessed 25 April 2022].

³⁴ Ibid

³⁵ Ibid

innings runs, next overruns, dismissal technique, etc. Customers can bet on sports like cricket in many set up across the country, including clubs, restaurants, and cafes. Due to the enrichment of the Bangladesh cricket team and, more importantly, the introduction of the BPL in 2012, cricket betting in Bangladesh has skyrocketed.³⁶ People also wager on international matches and events, such as the Indian Premier League (IPL) and the Pakistan Cricket League.³⁷ Public betting in stadiums during live cricket matches has recently been a growing problem for sports bookies.³⁸ Gamblers have taken advantage of the short time gap between live-action and official televised footage to place predictions.³⁹

2.9. Gambling in Other Sports:

Numerous sports leagues, such as the Spanish La Liga, the English Premier League, and the Indian Pro Kabaddi League, draw many viewers and gamblers.⁴⁰ Kabaddi, Bangladesh's national sport, is famous throughout the country and is even featured in the Asian Games. With the Kabaddi World Cup and Indian Pro Kabaddi League launch, this game has caught the interest of Bangladeshi gamblers, who have added it to their sports betting options. Most international online Bingo platforms are accessible to Bangladeshi residents.⁴¹

2.10. Social Impacts of Gambling:

Gambling habits can happen within any religious and ethnic group, gender, age, and social level. The concept of Gambling used for fun or as a leisure activity can be an addictive habit. That habit will eventually lead to mental, social, and physical problems.⁴² The resources were supposed to be used to pay regular bills, taxes, education fees, and other

³⁶ Supra 8

³⁷ Ibid

³⁸ Bangladesh Introduces Mobile Courts to Punish Gamblers, Available at: <https://www.casino.org/blog/bangladesh-introduces-mobile-courts-to-punish-gamblers/> [Accessed on: May 4, 2022]

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² Nisar Mohammad Ahmad, Mohd. Mahyeddin Mohd Salleh, Mustafa 'Afifi Ab. Halim 'The Right to Gamble': An Analysis of Gambling 'industries' in Malaysia from constitutional and legal perspectives, Available At: https://www.researchgate.net/publication/338119189_THE_RIGHT_TO_GAMBLE_AN_ANALYSIS_OF_GAMBLING_INDUSTRIES_IN_MALAYSIA_FROM_CONSTITUTIONAL_AND_LEGAL_PERSPECTIVES/references. [Accessed on: 22 April, 2022]

family expenses, but they were instead used to gamble. Gambling addiction has also resulted in financial losses, including funds for children's education, housing, retirement, and other critical and emergency needs.⁴³ Leading to a shortage of funds, gamblers may frequently and fraudulently borrow money from friends and relatives, claiming that it will be used for daily needs but actually to satisfy their gambling desire. The worst-case scenario is when they seek money from a loan or loan shark, putting themselves and their family at risk.⁴⁴ Furthermore, financial issues brought on by gambling addiction can lead to depression, demoralization, and a loss of ambition to live. People with such problems will take a short-cut solution by committing suicide. The Universal Declaration of Human Rights enshrines everyone has the right to life, security, and liberty⁴⁵. Also, The Constitution of Bangladesh determines that everyone has the right to life, freedom, and security.⁴⁶ It is the fundamental right of the citizen. The law protects every life. The right to life is not only to preserve the energy, but also it is protected from any offense.⁴⁷ It incorporates the right to live in a respectful manner of human dignity and decency.⁴⁸ The gambling companies gained billions in profit at the expense of the people's public health and morality. This is a threat to violate the Constitutional provisions for Public health and morality.⁴⁹ On average, problems caused by a gambler may impact between 7 to 17 people around him. Such effects include property loss, family breakdowns, domestic violence, theft, depression, and suicide.⁵⁰ Digital gambling typically results in two categories of troubles, severe issues such as criminality, depression, debt, suicidal thoughts, divorce, and more moderate problems such as chasing debts, concealment, poverty, depression, and excessive spending.⁵¹ Another issue is that online gambling can enhance criminal conduct and the number of organized crimes such as money laundering and fraud. For instance, many websites that pretend to provide digital gambling services are not genuine.⁵² There are no particular regulatory mechanisms to check the authenticity of these websites,

⁴³ Ibid

⁴⁴ Ibid

⁴⁵ Article 3, Universal Declaration of Human Rights (UDHR) Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>(Accessed on: 22 April,2022)

⁴⁶ Article 32, The Constitution of the People's Republic of Bangladesh [Accessed On 14 April, 2022]

⁴⁷ Supra Note 36

⁴⁸ Vikram v. Bihar, AIR 1988 SC 1782; Chameli Singh v. U.P., AIR 1996 SC 1051

⁴⁹ Article 18, The Constitution of the People's Republic of Bangladesh [Accessed On 14 April, 2022]

⁵⁰ Supra Note 11

⁵¹ Ranade, S., S. Bailey, and A. Harvey. 2006. A literature review and survey of statistical sources on remote gambling Available at: <https://silo.tips/download/a-literature-review-and-survey-of-statistical-sources-on-remote-gambling#modals> [Accessed On 14 April, 2022]

⁵² The Independent News, Online Gambling, Available at: <https://youtu.be/wHrItf47hIE> [Accessed On 30 April, 2022]

making it much easier for them to deceive users.⁵³ Because there are so many issues linked with the uncontrolled framework of digital gambling, the government must safeguard its citizens from any malpractices that would impact them as a welfare state.

⁵³ Ibid

3. CHAPTER III:

STATE OBLIGATION & INTERNATIONAL PERSPECTIVE

3.1. The Constitution of the People's Republic of Bangladesh

The constitution is the supreme law of the land. Bangladesh's constitution was not negotiated with a previous colonial state, nor was it drafted with the involvement or permission of any external sovereign entity.⁵⁴ It results from a historical independence battle, establishing it unique from other constitutions of comparable nature.⁵⁵ In the form, the people are the main characters. They represent the "power of the people." The constitution intended to create a welfare state, with the preamble declaring the state's main goal to be the democratic fulfillment of a socialist society free of exploitation. The concept of a welfare state was again ameliorated by the fundamental principle of state policy, which set out the constitution's social, political, and economic goals, and those principles were declared to be essential to the governance of Bangladesh and a guide to the interpretation of the constitution and the legislations.⁵⁶ The constitution declares the supremacy of the body. It aims to produce a limited government because the form prescribes and limits every authority and power in the republic.⁵⁷

The Constitution of Bangladesh, Article 18(2), stated that the state has a responsibility to "*adopt effective measures to prevent prostitution and gambling*"⁵⁸ The Constituent Assembly stated that the motive behind this to ensure that all injustices and malpractices are eliminated from the social system of Bangladesh in the future and that the government can take more drastic steps through all these.⁵⁹ It is binding upon the state's obligation to take adequate measures to prevent gambling.

But there is no clear concept about digital gambling mentioned. The Laws Continuance Enforcement Order was issued on April 10, 1971, simultaneously with the Proclamation of Independence, stating that "all laws in force in Bangladesh,"⁶⁰ including the Public

⁵⁴ Mahmudul Islam, Constitutional Laws of Bangladesh ,(3rd Edition, Mullick Brothers, April, 2016)

⁵⁵ Dr. Mohiuddin Farooque vs. Bangladesh, (1997) 49 DLR(AD) 1, Para 41

⁵⁶ Article 8(2), The Constitution of the People's Republic of Bangladesh. Dhaka: Government Printing Press, Government of Bangladesh; 1972. <http://bdlaws.minlaw.gov.bd/act-367/part-details-199.html>. (Accessed 30 April, 2022)

⁵⁷ Article 7, The Constitution of the People's Republic of Bangladesh (Accessed 14 April, 2022)

⁵⁸ Article 18, The Constitution of the People's Republic of Bangladesh (Accessed 14 April, 2022)

⁵⁹ Abdul Halim, Bangladesh Gonoporishad Bitorko, CCB Foundation, 2nd edition (2019).

⁶⁰ Laws Continuance Enforcement Order 1971

Gambling Act 1867. According to this act, all gambling activities in the state were banned. Despite this legislation, the current and past governments did not think of updating the gambling laws, which are over 150 years old.

Article 8(2) declares that fundamental principles are crucial to the governance of Bangladesh and should be applied by the government while creating legislation. As a result of these principles, the government is obligated to achieve and maximize social welfare and essential human values. On the other hand, article 8(2) expressly states that all these principles are not enforceable by the courts.⁶¹

In *Kudrat-E-Elahi vs. Bangladesh*, These Fundamental Principles are not enforceable by the courts. Also stated that People's programs for the country's socio-economic development peacefully, not overnight, but gradually. These initiatives require resources, technical know-how, and a variety of other factors, including mass education. The state must decide whether these prerequisites exist for a peaceful socioeconomic revolution.⁶²

In *Wahab vs. Secretary, Ministry of Land*, FPSP place an obligation on the government to act on them, even though they are not judicially enforceable.⁶³

In *Secretary, Ministry of Finance, Vs. Masdar Hossain & others*, though the Court cannot enforce the FPSP directly, it has criticized the government for failing to execute Article 22 of the Constitution of Bangladesh. One of the Fundamental Principles of State Policy in Article 22 focuses on the state's failure to separate the executive from the judiciary.⁶⁴

In *Professor Nurul Islam vs. Bangladesh*: The Court interpreted the State's obligation to improve public health and morality in light of the Constitution, Article 32's relevance to the right to life, concluding that the State is obligated to prohibit all forms of tobacco product advertising and ordering the Government to do so⁶⁵. This case can be seen as an example of a 'rights-based' understanding of a State obligation under a fundamental state policy principle. This case served as a precedent for judicial recognition and

⁶¹ Saleemullah v. Justice M.A. Quddus Chowdhury, (1994) 46 DLR 691, Aftabuddin v. Bangladesh, (1996) 48 DLR1

⁶² (1992) 44 DLR (AD)

⁶³ (1996) 1 MLR 338

⁶⁴ 20 BLD (AD) (2000)

⁶⁵ 52 DLR 413

implementation of many other fundamental rights and socioeconomic concepts found in Part II of the Constitution.

3.2.The Constituent Assembly

The Constituent Assembly of Bangladesh Order was promulgated on March 22, 1972, as intended in the preliminary form of Bangladesh Order, 1972, with the first stage in forming the constitution of independent Bangladesh.⁶⁶ The Constituent Assembly was comprised of elected delegates under this Order. As a result, it should have been given the power to control the cabinet and establish legislation for Bangladesh under the parliamentary system. Unfortunately, the Constituent Assembly was not given any legislative powers or the capacity to control the cabinet,⁶⁷ The President was given complete authority over the lawmaking process with the advice of the Prime Minister⁶⁸.

Sri Manabendra Narayan Larma proposed an amendment in the debate of the Constituent Assembly on article Article 18 (2) that the state will try to find out what is written here about the Forbidden Villages. Still, the oppressed women around this area live a life of complete deprivation of human rights. There should be a provision on how they can be established in society. And then an anti-social act like gambling can be stopped entirely, and arrangements should be made.⁶⁹ Dr. Kamal Hossain replied that the amendment Larma is talking about is already in our constitution in appropriate language. The language of Larma's proposal is not constitutional. So his proposal will not be accepted.⁷⁰ Mr. Sirajul Haque said in the proposed amendment of Article 18 (2) is not our law, but it is stated in the principles of our state policy that the state will try to eradicate this prostitution from the society gradually.⁷¹ Supporting Larma's proposal, Suranjit Sengupta said that prostitution was born in our community from the time of colonial rule. It is a recognized and severe problem of society. This problem has not yet reached such a position that it is beyond our control. We do not think it would be too late to resolve the issue.⁷² Mr. Asaduzzaman Khan said that the state would rehabilitate prostitutes when the government abolished them. Mr. Md. Mosharraf Hossain has said in this regard that all

⁶⁶ Supra

⁶⁷ Ibid

⁶⁸ Ibid

⁶⁹ Supra 59

⁷⁰ Ibid

⁷¹ Ibid

⁷² Ibid

injustices and malpractices are eliminated from the social system of Bangladesh in the future and that the government can take more drastic steps through all these.⁷³ In his remarks on the issue, Kamal Hossain said that the government should take adequate measures to change the situation. The Honorable Speaker noted in this support that taking effective measures means that the state will take necessary steps in this regard, and this is the principle of running the state.⁷⁴

According to these debate about Article 18(2) of the Constitute Assembly, there are no reverse arguments about making gambling illegal in Bangladesh. Because of the anti-social behaviour of gambling, the provision regarding gambling is incorporated. Now we can relate two different scenario about Article 18(2). Firstly taking educate measure to prevent gambling is more important than Prostitution. Secondly government should take same preventive method about gambling and prostitution.

Although it has been fifty years since our independence, none of the fundamental principles have been fully implemented.⁷⁵ Laws have been passed prohibiting the consumption of intoxicating liquor and narcotics, cyber security, and other critical matters. However, a problem like gambling is never identified. No government, whatever of its complexion, can do miracles.

3.3.INTERNATIONAL PERSPECTIVE

Other countries have used several approaches to control digital gambling. Countries that place a high value on religion and morals have outright restricted or prohibited these practices, making gambling illegal in those countries. On the other hand, some countries have permitted digital gambling as a source of revenue. At the same time, other countries decide to operate in the middle, regulating these activities in a controlled manner in order to produce significant tax revenue that may be used to support sporting activities, culture, charitable works, or any other economic expansion or developmental activities.⁷⁶

⁷³ Ibid

⁷⁴ Ibid

⁷⁵ Md. Abdul Halim. Constitution, Constitutional Law and Politics: Bangladesh Perspective (2nd Edition, September 2023)

⁷⁶ McMillen, J. (2000). Online gambling: Challenges to national sovereignty and regulation. Prometheus, 18(4): 391-401, Available at:

https://www.researchgate.net/publication/227623123_Online_Gambling_Challenges_to_National_Sovereignty_and_Regulation/citations [Accessed On 29 April, 2022]

3.3.1. The United States of America

Two laws regulating gambling in the United States are the Unlawful Internet Gambling Enforcement Act of 2006 and the Illegal Gambling Business Act of 1970.⁷⁷ In the United States, UIGEA governs internet gambling. Unlawful Internet Gambling is defined as “receiving, placing, or otherwise knowingly forwarding a bet or wager by any means that involves, at least to some extent, the use of the Internet is barred by any applicable Federal or State legislation where any such bet or wager is originated, received, or otherwise made on State or Tribal grounds.”⁷⁸ Violations of the law are punishable by imprisonment and a monetary fine.

3.3.2. India

Two states have passed legislation regulating online gambling and sports gambling in India⁷⁹. Online gambling is illegal in Maharashtra. However, the state government of Sikkim now has the authority to issue licenses to companies who wish to provide online gaming services in the state. On March 4, 2009, the Sikkim Online Gambling (Regulation) Act 2009 was passed.⁸⁰ The dual goals are controlling and regulating online gaming in both electronic and non-electronic formats and imposing a tax on such activities in Sikkim. New legislation, the Foreign Exchange Management Act, was recently enacted, stating that online gaming site payments must be made in Indian currency. Nonetheless, most gamers use an electronic transaction wallet like PayPal, Binance, Skrill, or Neteller.⁸¹

⁷⁷ Review of current and future trends in interactive gambling activity and regulation, Literature Review, Report to the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, by the Allen Consulting Group, June 2009, p. 38 Available At: <https://docplayer.net/2707736-Review-of-current-and-future-trends-in-interactive-gambling-activity-and-regulation-literature-review.html>

[Accessed On 29 April, 2022]

⁷⁸ Ibid

⁷⁹The Art of Gambling and its Related Laws in Available at:

<https://www.jetir.org/papers/JETIREW06074.pdf>

[Accessed On 29 April, 2022]

⁸⁰ Ibid

⁸¹ Ibid

3.3.3. Indonesia

Indonesia is governed by Sharia Law, which makes all types of gambling illegal. The state lottery is the only form of gambling that is permitted.⁸²

3.3.4. Singapore

All types of gambling are prohibited in Singapore. Hundreds of international gambling sites have been officially blocked in Singapore, and it is now forbidden to gamble online on an unregulated site. The new Remote Gambling Act banned gambling services, remote gambling service marketing, and remote gambling promotions.⁸³

3.3.5. The United Arab Emirates

Online gambling is illegal in the United Arab Emirates, and the government takes stringent measures to detect and restrict unlawful online content, including gambling websites.⁸⁴

3.3.6. Qatar

Gambling is illegal in Qatar, another Islamic country, and the government prevents access to gambling websites by internet filtering.⁸⁵

3.3.7. Bahrain

Gambling is prohibited in Bahrain, which is also an Islamic country. Internet filtering is also in place, with the government blocking gambling-related websites.⁸⁶

3.3.8. Kuwait

Islamic country is Kuwait, where all forms of gambling are strictly outlawed.⁸⁷

⁸² Phaik Khoon, Chee. Online Gambling In Asia Overview. Available At: <https://www.linkedin.com/pulse/online-gambling-asia-overview-ally-chee> [Accessed on: 05 May, 2022]

⁸³Supra 72

⁸⁴ Ibid

⁸⁵ Supra 75

⁸⁶ Ibid

⁸⁷ Ibid

4. CHAPTER IV: GAMBLING AND THE CURRENT LEGAL REGIME OF BANGLADESH

4.1. Public Gambling Act, 1867

The gambling legislation of Bangladesh derived from the time of British rule. Pakistan later inherited the Indian gambling law to regulate matters related to gambling within the country. Bangladesh adopted The Public Gambling Act on 30 June 1973, two years after the liberation war. Specific changes have been made to the act a few times to allow certain lotteries, clarify prize bonds, not gambling, and add tax charges to horse riding and bookmaker operators⁸⁸. According to the Act, the punishment for being caught in gambling is one-month imprisonment or a small fine of BDT 100⁸⁹: According to this Act, the maximum sentence for a gambling fine does not exceed Tk. 600, or imprisonment not more than one year.⁹⁰ Owning or keeping a common gambling house is also punishable by a fine of up to 200 Tk. or imprisonment not more than three months.⁹¹ Under this Act, the ban also applying to gamblers states anyone is caught playing cards, dice, counters, money, or other gaming equipment in any such area, dwelling, room, tent, or walled enclosure, or is found present for gambling, besides playing for any value, wager, money, stake or otherwise, shall be punished to a fine up to 100 Tk. or imprisonment not exceeding one month.⁹² This legislation does not regulate virtual spaces.

In the case of *Jafar Ullah vs. Bangladesh*,⁹³ Muktijodhya Welfare Club allowed Jafar Ullah to hold indoor games such as Nipun Khela, Charchari, Dice, Howji, and cultural programs in the Naogaon Muktijodhya Welfare Club's grounds. The court does not doubt that Dice & Howji are gambling because they are games played to win more money. Nipun Khela and Charchari are also considered gambling because they are all involved in wagering and betting to win extra money. It was held that authorization by

⁸⁸ Section 1A Public Gambling Act, 1867 Available At: <http://bdlaws.minlaw.gov.bd/act-details-16.html>. [Accessed on: 30 April, 2022]

⁸⁹ Section 4, Public Gambling Act, 1867.

⁹⁰ Section 13, Public Gambling Act, 1867

⁹¹ Section 3, Public Gambling Act, 1867

⁹² Section 4, Public Gambling Act, 1867

⁹³ 66 DLR (2014) 380

the Muktijodhya Welfare Club to operate a common-gaming house was considered illegal and punishable under the Public Gambling Act of 1876.⁹⁴

However, since then, the act has remained unchanged; although there are new sectors such as online gambling, sports betting has come up in betting sectors. This legislation provides provisions for only land-based gambling. No section of this law offers sanctions for online gambling or sports betting. Accordingly, Digital gambling in Bangladesh is not explicitly controlled, and players likely need not fear prosecution for online gambling. There is nothing written about computers and the internet in the Act, and it is only applicable within the jurisdiction of Bangladesh. Apart from that, Bangladesh has no official gambling authorities.

4.2.Dhaka Metropolitan Police (Amendment) Ordinance, 1976

According to the ordinance, “Whoever assembles with others in a street or public place for gambling or wagering or joins any such assembly shall be liable for gambling and the punishment under section fine which may extend to Tk. 100.”⁹⁵ There is no clear definition of gambling provided. This legislation regarding gambling is only valid for land-based gambling. This section Includes streets, but there is no specific provision against online gambling, and people use this flaw as their weapon. Although Bangladesh does not have a legal site for gambling, many casino sites from other countries accept players from Bangladesh. Despite gambling being illegal in Bangladesh, how are the people in Bangladesh getting the opportunity to gamble using other countries’ sites? Those sites also do not fall within the Jurisdiction of Bangladeshi Laws.

4.3.Penal Code, 1860

According to the Penal code, “Whoever keeps any office or place to draw any lottery not being a government lottery or a lottery authorized by the government shall be punished with imprisonment up to six months, fine, or both.”⁹⁶ And Anyone who publishes any

⁹⁴ Ibid

⁹⁵ Section 92 Dhaka Metropolitan Police (Amendment) Ordinance, 1976 Available at: <http://bdlaws.minlaw.gov.bd/act-511.html> [Accessed on: 14 April, 2022]

⁹⁶ Section 294A Penal Code, 1860 Available at: <http://bdlaws.minlaw.gov.bd/act-11.html> [Accessed on: 14 April, 2022]

proposal to pay any amount, or to attempt to deliver any goods, or to conduct or refrain from performing or refraining from doing anything for the benefit of any person, on any event or contingency related or applicable to the drawing of any ticket, number, lot, or figure in any such lottery punishable by a fine up to one thousand takas.”⁹⁷ It is an offence to keep an unauthorized lottery office and publish it. A lottery is a game of chance in which the prize is given by chance or by lot. If the result depends entirely on luck, or if there is an element of skill, it is not a lottery. This section does not affect the official lottery. However, it intends to save people from the effects of those not authorized by prohibition. It is a crime to make an offer for the lottery. The person who offers the lottery will be punished even if the lottery is not held; even if the public is not deceived, his crime will remain the same.⁹⁸ No lottery ticket can be offered to the general public without the government’s recognition.⁹⁹ Any lottery is just as risky as gambling. He cannot leave the open market unless the state legalizes him. Lottery games are not illegal, but government permission is required.¹⁰⁰

As a result, any lottery that the government has sanctioned is legitimate. So, the Bangladesh Bank's prize bond is legal. But whoever intends to run a business for lottery without the verification of the government is illegal.

4.4.Contract Act, 1872

According to this act, agreements contingent on wagering agreements are void. “All agreements deliberately made to facilitate or encourage the entering into, implementing, or carrying out, or to secure or guarantee the performance of any agreement is void.”¹⁰¹

A wagering contract is where two people agree that one will win if a future uncertain event is determined. The other will pay a particular amount of money, with no further genuine consideration for the contract being made.¹⁰² Ascertaining if either of the parties intended actual transfer of the goods is a condition for separating wagering contracts from regular commercial transactions. To constitute a wager, the transaction

⁹⁷ Ibid

⁹⁸ AIR 1957 AP 98

⁹⁹ 5BCR 1985 AD 265

¹⁰⁰ AIR 1936 MAD 225

¹⁰¹ Section 30A, Contract Act 1872 Available at: [http://bdlaws.minlaw.gov.bd/act-26/section-194.html#:~:text=\(%20ACT%20NO.,IX%20OF%201872%20\)&text=%5B30A.,under%20section%2030%2C%20are%20void.](http://bdlaws.minlaw.gov.bd/act-26/section-194.html#:~:text=(%20ACT%20NO.,IX%20OF%201872%20)&text=%5B30A.,under%20section%2030%2C%20are%20void.) [Accessed on: 25 April, 2022]

¹⁰² PLD 1975 Karachi 661.

between the parties must be neither look to anything other than the payment of money on the determination of uncertainty."¹⁰³

4.5.Digital Security Act, 2018

Digital Security Act section 30 provides provisions for Offence and punishment for an electronic transaction without legal authority. If any person without lawful authority makes an electronic transaction over electronic and digital method from any bank, insurance or any other financial institution or any organization providing mobile money service; or makes any e-transaction though it is, from time to time, declared illegal by Bangladesh Bank or the Government, then such an act shall be a punishable offense.¹⁰⁴ Digital Security Act doesn't contain any provision regarding Digital gambling or Casino.

Two people in Lalmonirhat were arrested on gambling charges, and a lawsuit was filed under the Digital Security Act, 2018.¹⁰⁵ Officer-in-charge of Lalmonirhat Sadar Police Station, Mr. Shah Alam, claimed that the lawsuit was filed under the Digital Security Act against people for gambling for the first time in Bangladesh.¹⁰⁶ The charges brought against the accused were for committing an illegal electronic transaction while betting on Indian Premier League matches using Betting phone apps.¹⁰⁷

4.6.Import Policy Order 2015-2018

The Commerce Ministry of Bangladesh regulates Import Policy Order 2015-2018. It does not impose any restriction on importing any object used for gambling.¹⁰⁸ According to the trade ministry, casino equipment was not mentioned on the list of things banned and

¹⁰³ PLD 1975 Karachi 661

¹⁰⁴ Section 30, Digital Security Act, 2018. Available at: <http://bdlaws.minlaw.gov.bd/act-1261/section-47488.html>. [Accessed on 15 April 2022].

¹⁰⁵ 2 held under DSA for gambling on IPL, The Daily Star. Available At: <https://www.thedailystar.net/backpage/news/2-held-under-dsa-gambling-ipl-2088341>[Accessed 15 April 2022].

¹⁰⁶ Ibid

¹⁰⁷ Ibid

¹⁰⁸ IMPORT POLICY ORDER 2015-2018, Ministry of Commerce Government of the People's Republic of Bangladesh. Available At: <https://basis.org.bd/public/files/policy/5e16509e92820Import%20Policy%20order.pdf>. [Accessed 15 April 2022].

restricted in the import rules.¹⁰⁹ The casino's machines and materials are not forbidden.¹¹⁰ The NBR is adhering to the current guideline as well. Six organizations have been identified by NBR's Customs Intelligence and Investigation Directorate (CIID) as having imported the casino equipment.¹¹¹ Many gambling devices were imported under other things, including slot machines, poker sets, Mahjong tables, and chips. The majority of these materials came from China.¹¹² In the last few years, 15 shipments of casino equipment have been unloaded at this port, according to Chattogram Custom House.¹¹³ A total of 13 consignments were brought in from China. Each from Japan and Hong Kong, two consignments were imported.¹¹⁴ NBR chairman had 'verbally' prohibited any future consignments of Casino equipment from being shipped.¹¹⁵ NBR will also make necessary changes to the existing import rules to permanently halt the import of casino supplies.¹¹⁶ The Customs Intelligence and Investigation Directorate (CIID) is looking for the importers of casino materials, even though such imports are not currently banned.¹¹⁷

4.7. Money Laundering Prevention Act 2012

According to section 2(v) (ii) of the Money Laundering Prevention Act 2012, Money laundering is defined as the smuggling of money or property, and it is punishable by the Act.¹¹⁸ According to section 4 of the MLPA, anyone who commits, aids, or conspires to commit money laundering faces a minimum of four years and a maximum of twelve years in jail, as well as a fine of double the value of the property involved in the offence or BDT 10 lakh, whichever is larger.¹¹⁹

¹⁰⁹ Casino equipment imported easily, Prothom Alo, Available At:<https://en.prothomalo.com/bangladesh/Casino-equipment-imported-easily>. [Accessed 15 April 2022].

¹¹⁰ Supra 39

¹¹¹ Supra 40

¹¹² Ibid

¹¹³ Ibid

¹¹⁴ Ibid

¹¹⁵ M S Siddiqui, Amendment to Gambling Law to ban Casino, Available At:<https://dailyasianage.com/news/199020/amendment-to-gambling-law-to-ban-casino> [Accessed 15 April 2022].

¹¹⁶ Ibid

¹¹⁷ Ibid

¹¹⁸ Section 2, Money Laundering Prevention Act, 2012. Available At: http://www.bangladeshcustoms.gov.bd/download/Money_Laundring_Prevention_Act_2012-English_Version.pdf [Accessed on: 29 April 2022]

¹¹⁹ Section 4, Money Laundering Prevention Act, 2012.

4.8. Bangladesh Bank Guidelines:

It is illegal for anybody to help a criminal obtain, transfer, maintain, remit, conceal, or invest moveable or immovable property if they know or suspect that the property is the profits of illicit activity.¹²⁰ Money laundering is punishable by a minimum of six months and a maximum of seven years imprisonment, as well as a fine equal to twice the amount of money laundered.¹²¹ According to the Guidelines for Banking Operation in Bangladesh, operational risk, Credit risk, reputation risk, legal risk, liquidity risk, and compliance with money laundering and terrorism funding requirements should pay special attention to the banking organization.¹²² It is also identifying irregular or suspicious transactions and generating reports.¹²³ It is illegal for banks, financial institutions, and other financial organizations to lose focus of their customers' identities and transaction records.¹²⁴ Also, report the knowledge or suspicion of money laundering to Bangladesh Bank as soon as possible after the information comes to light.¹²⁵ On December 24, 2017, the Bangladesh Bank issued a circular and posted it on its website asking everyone to avoid trading virtual money also stated in its public notice: According to the Anti-Terrorism Act, 2009, Foreign Exchange Regulation Act, 1947, the Money Laundering Prevention Act, 2012, and, any virtual money transactions will be prohibited.¹²⁶

4.9. The Role of Law Enforcing Agencies to Prevent Digital Gambling:

- To prevent digital gambling, DMP has written to the BTRC demanding that 12 websites be blocked.¹²⁷

¹²⁰ Article 2.2.5, The Offence of Money Laundering, Bangladesh Bank Guidance Notes on Prevention of Money Laundering. Available At: <https://www.bb.org.bd/en/index.php/about/guidelist> [Accessed on: 29 April 2022]

¹²¹ Article 2.3.1, The Offence of Money Laundering, Bangladesh Bank Guidance Notes on Prevention of Money Laundering.

¹²² Article 23(1), Prudential Guidelines for Agent Banking Operation in Bangladesh, 2017. Available At: <https://www.bb.org.bd/en/index.php/about/guidelist> [Accessed on: 29 April 2022]

¹²³ Article 25(3), Prudential Guidelines for Agent Banking Operation in Bangladesh, 2017.

¹²⁴ Article 2.2.3, The Offence of Money Laundering, Bangladesh Bank Guidance Notes on Prevention of Money Laundering.

¹²⁵ Article 2.2.4, The Offence of Money Laundering, Bangladesh Bank Guidance Notes on Prevention of Money Laundering.

¹²⁶ Cryptocurrency trading not allowed at all: Bangladesh Bank, The Daily Star(2021), Available at: <https://www.thedailystar.net/business/news/cryptocurrency-trading-not-allowed-all-bangladesh-bank-2140141> [Accessed on: 29 April 2022]

¹²⁷ Supra 8

- During BPL matches, the DMP arrested at least 60 accused gamblers, including three Indians and four Pakistanis, both inside and outside the stadiums.¹²⁸ A mid-ranking DMP official said they were detained but later released on bond because anyone convicted of unlawful gambling had to pay Tk 100 under the law.¹²⁹
- According to law enforcement agencies, an international gambling ring has been siphoning millions of taka out of the country every day and investing it in cryptocurrency.¹³⁰ The information came to light after the police's Counter-Terrorism and Transnational Crime (CTTC) Unit detained Mohiuddin Parvez, an Engineering graduate student who ran digital gambling sites for the last seven months and earned approximately 1.5 lakh per day.¹³¹ He used to commit transactions of Tk. 50 lakh a day in four agent accounts, leading law enforcement agencies to request Interpol's help in tracking them down.¹³²
- Five members of an online betting syndicate have been arrested by the Criminal Investigation Department (CID), who were involved in money laundering abroad via virtual currency and e-transactions obtained from sites like Bet365 and 9 Wickets.¹³³
- CID arrested 9 people from three districts around the country for their alleged involvement in 1xbetbd.com, a digital gambling platform.¹³⁴ According to CID authorities, online gambling is prevalent in Dhaka, Meherpur, Barisal, Chuadanga, and Cox's Bazar; according to CID investigators, three digital gambling platforms, including 1xbetbd.com and mostbetbd.com, have over 1.5 lakh members. Tk3 to 5 crores are transacted regularly on average on these gaming platforms.¹³⁵ Nagad's services are also used in gambling transactions: CID.¹³⁶

Usually, agent business SIMs are only given to sales representatives, but they were selling them to other persons in different districts and using them for unlawful operations. On the

¹²⁸ Ibid

¹²⁹ Ibid

¹³⁰ Mohammad Jamil Khan, Online Gambling: Crores siphoned out of country, The Daily Star. Available at: <https://www.thedailystar.net/frontpage/news/online-gambling-crores-siphoned-out-country-2114173>. [Accessed on: 15 April 2022].

¹³¹ Ibid

¹³² Ibid

¹³³ 5 arrested for money laundering via online betting, The Daily Star, Available at: <https://www.thedailystar.net/news/bangladesh/crime-justice/news/5-arrested-money-laundering-online-betting-2974841> [Accessed on 29 April 2022]

¹³⁴ Online gambling rampant in Meherpur, Chuadanga, Cox's Bazar, The Business Standers. Available at: <https://www.tbsnews.net/bangladesh/crime/online-gambling-rampant-meherpur-chuadanga-coxs-bazar-329623> [Accessed on 15 April 2022]

¹³⁵ Ibid

¹³⁶ Ibid

other hand, concerned MFS firms are hesitant to take action in response to the breach. ¹³⁷"We are also receiving information concerning online payment systems for gambling," said Md. Razi Hasan, chief of the Bangladesh Financial Intelligence Unit (BFIU)¹³⁸. The information is being shared with law enforcement. When asked how people could open any bKash agent accounts without valid information, Shamsuddin Haider Dalim, the Bkash Company's head of corporate communication, responded: "If we receive a complaint about the use of agent accounts for unlawful activities, we will investigate immediately and respond accordingly, such as suspending the account. We have two separate teams working that communicate closely with law enforcement and the BFIU."¹³⁹

¹³⁷ Ibid

¹³⁸ Supra Note 29

¹³⁹ Ibid

5. CHAPTER V: FINDINGS AND RECOMMENDATIONS

Many problems and questions need to be solved to combat the emerging form of gambling. In this chapter, those problems and some ways out have been discussed.

5.1.FINDINGS

It is now clear from the above discussions that Digital Gambling in Bangladesh is unregulated, and the Government is not so much concerned about it. The Public Gambling Act 1867 and other regulations have lacked enough provisions to cope with the emerging digital gambling in Bangladesh. And the punishment is not adequate. When a gambler can win millions of money from gambling, it is not a very big deal for him to pay a 500 taka fine. Because almost all online gambling sites are foreign-based, they do not fall within the Jurisdiction of Bangladeshi. As a result, online gamblers can easily avoid punishment and are not afraid of punishment because the penalties are minimal. There are no provisions to tax private persons because all online sports betting takes place at overseas sportsbooks. The amount gamblers win from this site; they can withdraw without paying any taxes to the government. This massive and unregulated flow of cash from country to country through online gambling hampers the economy of Bangladesh to a great extent.

- The country's current and previous governments have not considered updating the gambling part, which is almost 150 years old.
- The Public Gaming Act of 1867 does not provide sufficient restrictions to address the emergence of online gambling in Bangladesh. And the punishment is out of proportion to the earnings that can be made from gambling.
- The Public Gaming Act of 1867 makes no mention of computers or the internet. As a result, the definition of an online gaming site as a Gaming House is still undetermined.
- Almost all online gambling sites are established outside the jurisdiction of Bangladesh. Hence they are not subject to Bangladeshi legislation. As a result, online gamblers can easily avoid punishment and aren't afraid of being punished because the penalties are so low.
- There is no crystal clear definition of Digital gambling under any anti-gambling laws.

- There are no provisions to tax private persons because all online sports betting is done in foreign sportsbooks. As a result, no matter how much money one wins from gambling, one can withdraw it without paying any taxes to the government.
- In terms of gambling, the Public Gambling Act of 1867 is insufficient. According to section 3 of this act gamblers and their assistants are liable, on conviction before any Magistrate, to a fine up to one hundred takas or to imprisonment of either sort, as described in the Penal Code, which is a very minimal penalty.
- Because the law is weak, it is difficult to confirm that the guilty will be punished.
- Due to weak gaming regulations, most of the lawsuit against the gamblers were filed under the Money Laundering Prevention Act, the Arms Act, the Drugs Control Act, and other statutes.
- Existing statutes do not include the term "Casino."
- Existing rules are outdated and inadequate for taking appropriate action against persons who engage in gambling operations.
- Casino and gambling materials entered the country through legal routes because they aren't listed as forbidden in the government's import policy order.
- In Bangladesh, there are no legal regulations for internet gambling, including laws governing information and communication technology.
- Besides gambling in casinos, a variety of criminal activities may happen.

5.2.RECOMMENDATIONS

- ✓ A clear definition of digital gambling should be incorporated.
- ✓ Government should take strict measures to detect and restrict banned online content related to gambling.
- ✓ Government should block every website connected to gambling.
- ✓ Existing law would have to be repealed, and a new law would have to be enacted to combat gambling and casinos. If new legislation is enacted, it will have to include

"casino." Otherwise, criminals will have an opportunity to evade the application of the law.

- ✓ The Public Gambling Act needs to be repealed and amended. The provision for punishment, fines, and imprisonment should be increased.
- ✓ It is possible to amend laws, but it is not the only option. State procedures and political resistance against casinos and gambling have the potential to alter the situation. Public awareness can play a vital role in dealing with gambling.
- ✓ Under the proposed laws, the terms "casino" and "online gambling" should be adequately defined. On the other hand, The ICT Act of 2006 may include legal provisions for Digital gaming and impose adequate punishment for these illegal activities.
- ✓ Appropriate legal action should be taken by The National Board of Revenue (NBR) and the Ministry of Commerce (MoC) to limit the importation of casino materials.
- ✓ To Avoid gambling, the government and opposition parties should work together to ensure that no one uses their political identity in the gaming process.
- ✓ To combat gambling, law enforcement officials should be more aware they should set an eye on the changing pattern of gambling and enforce the law accordingly.
- ✓ Every banking institution should report immediately the knowledge or suspicion of money laundering to Bangladesh Bank.
- ✓ Under the new law, adequate punishment for gambling should be imposed.
- ✓ The judiciary should play an essential role in the fight against gambling. Controlling these types of criminal conduct requires a collective effort from the legislative, executive, and judicial branches.

CONCLUSION

The existing laws of Bangladesh place severe prohibitions on any gatherings or establishments which facilitate gambling, indirectly allowing Digital gambling activities in Bangladesh. Allowing gambling activities in Bangladesh implicitly violates existing laws and the spirit of the People's Republic of Bangladesh's Constitution. However, as new forms of gambling emerge, regulations must be updated and administered appropriately to ensure that the constitutional duty to ban gambling is upheld. When it comes to the disadvantages of gambling, it is clear that it has inevitable visible and far-reaching consequences on morality, economy, society, politics, and law and order in the country; the government should implement comprehensive measures to address solely gambling-related concerns.

BIBLIOGRAPHY

★ STATUES & STATUTORY INSTRUMENTS:

1. The Constitution of the People's Republic of Bangladesh 1972.
2. Public Gambling Act, 1867.
3. Dhaka Metropolitan Police (Amendment) Ordinance, 1976.
4. Penal Code, 1860.
5. Contract Act, 1872.
6. Narcotics Control Act, 1990.
7. Money Laundering Prevention Act, 2012.
8. Bangladesh Bank Guidance Notes on Prevention of Money Laundering.
9. Prudential Guidelines for Agent Banking Operation in Bangladesh, 2017.
10. Import Policy Order 2015-2018.
11. Digital Security Act, 2018.
12. Universal Declaration of Human Rights (UDHR)

★ BOOKS:

1. Belayet Hossein, Salena Akter, The Penal Code(5th Edition, Hira Publications, October 2016)
2. DLR, The Contract Act, 1872(4th Edition, 2014)
3. Justice Mustafa Kamal, BANGLADESH CONSTITUTION: TRENDS & ISSUES, (Dhaka University Publications Bureau, April 2001)
4. Mahmudul Islam, Constitutional Laws of Bangladesh,(3rd Edition, Mullick Brothers, April 2016)
5. Md. Abdul Halim. Constitution, Constitutional Law, and Politics: Bangladesh Perspective (2nd Edition, September 2023)
6. Abdul Halim, Bangladesh Gonoporishad Bitorko, CCB Foundation, 2nd edition (2019).

❖ JOURNALS, ARTICLES & REPORTS:

1. Cosgrave, J. (Ed.). (2006). *The Sociology of Risk and Gambling Reader* (1st Ed.) Available At: <https://doi.org/10.4324/9780203820070> [Accessed On 29 April 2022]
2. David G. Schwartz, *Roll The Bones: The History of Gambling* (Casino Edition) Available At: <https://www.amazon.com/Roll-Bones-History-Gambling-Casino/dp/0615847781> [Accessed On 1 April 2022]
3. Nelson Rose, *Gambling and the Law: An Introduction to the Law of Internet Gambling*. Available At: <https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1146&context=grrj#:~:text=Gambling%20consists%20of%20three%20elements%3A%20consideration%2C%20prize%20and%20chance.> [Accessed 1 April 2022]
4. Ranade, S., S. Bailey, and A. Harvey. 2006. A literature review and survey of statistical sources on remote gambling Available at: <https://silo.tips/download/a-literature-review-and-survey-of-statistical-sources-on-remote-gambling#modals> [Accessed On 14 April 2022]
5. McMillen, J. (2000). Online gambling: Challenges to national sovereignty and regulation. *Prometheus*, 18(4): 391-401, Available at: https://www.researchgate.net/publication/227623123_Online_Gambling_Challenges_to_National_Sovereignty_and_Regulation/citations [Accessed On: 29 April 2022]
6. Review of current and future trends in interactive gambling activity and regulation, Literature Review, Report to the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, by the Allen Consulting Group, June 2009, p. 38 Available At: <https://docplayer.net/2707736-Review-of-current-and-future-trends-in-interactive-gambling-activity-and-regulation-literature-review.html> [Accessed On 29 April 2022]
7. MacKay, T. (2004). *Internet Gambling in Canada Waits in Legal Purgatory*. National Policy Working Group: Policy Discussion Document. Available at: <https://jcil.lsyndicate.com/wp-content/uploads/2018/09/17.-Sakshi.pdf> [Accessed On 29 April 2022]
8. *The Art of Gambling and its Related Laws in India*. Available at: <https://www.jetir.org/papers/JETIREW06074.pdf> [Accessed On: 29 April 2022]

★ ONLINE SOURCES:

1. Glimne, Dan. "Gambling." Encyclopedia Britannica, 20 Feb. 2019, Available at: <https://www.britannica.com/topic/gambling>. [Accessed On 1 April 2022]
2. Phaik Khoon, Chee. Online Gambling In Asia Overview. Available At: <https://www.linkedin.com/pulse/online-gambling-asia-overview-ally-chee> [Accessed on: 05 May, 2022]

★ NEWSPAPER & MEDIA SOURCES

1. Rafiul Islam, Police Blacklist 12 Websites, The Daily Star, Available at: <https://www.thedailystar.net/frontpage/police-blacklist-12-websites-1330054>[Accessed on May 3, 2022]
2. RAB cracks down on illegal casinos, Dhaka Tribune, Available At: <https://archive.dhakatribune.com/bangladesh/dhaka/2019/09/18/illegal-casion-busted-over-100-held>. [Accessed 15 April 2022].
3. A year into casino crackdown: Assets worth over 400C confiscated from suspects, Dhaka Tribune, <https://archive.dhakatribune.com/bangladesh/2020/09/17/a-year-into-casino-crackdown-assets-worth-over-400c-confiscated-from-suspects>. [Accessed 15 April 2022].
4. Is Online Gambling Legal in Bangladesh? Available At: <https://www.indibet.com/news/sports/is-online-gambling-legal-in-bangladesh/> [Accessed 15 April 2022].
5. 2 held under DSA for gambling on IPL, The Daily Star. Available At: <https://www.thedailystar.net/backpage/news/2-held-under-dsa-gambling-ipl-2088341>[Accessed 15 April 2022].
6. Casino equipment imported easily, Prothom Alo, Available At:<https://en.prothomalo.com/bangladesh/Casino-equipment-imported-easily>. [Accessed 15 April 2022].
7. M S Siddiqui, Amendment to Gambling Law to ban Casino, Available At:<https://dailyasianage.com/news/199020/amendment-to-gambling-law-to-ban-casino> [Accessed 15 April 2022].

8. Mohammad Jamil Khan, Online Gambling: Crores siphoned out of country, The Daily Star. Available at: <https://www.thedailystar.net/frontpage/news/online-gambling-crores-siphoned-out-country-2114173>. [Accessed 15 April 2022].
9. 5 arrested for money laundering via online betting, The Daily Star, Available at: <https://www.thedailystar.net/news/bangladesh/crime-justice/news/5-arrested-money-laundering-online-betting-2974841> [Accessed on 29 April 2022]
10. Online gambling rampant in Meherpur, Chuadanga, Cox's Bazar, The Business Standers. Available at: <https://www.tbsnews.net/bangladesh/crime/online-gambling-rampant-meherpur-chuadanga-coxs-bazar-329623>[Accessed on 15 April 2022]