

# Examination of Lottery as a Contract

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## Abstract

Lottery, a type of gambling, falls under the category of contingent contract. This Paper examines lottery as a contract. The Paper also discusses the legal status of the lottery in India. Independent variables used in this research paper are name, age, gender, educational qualification, occupation and monthly income. Dependent variables are 'Do you think non-tax revenue earned through lottery is necessary to run a state effectively?' and 'Do you agree that lottery should be banned from all sources including governmental sources?'. A study has been conducted among 1592 respondents to extract their opinion. The collected data has been analysed by using the SPSS package

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## I. INTRODUCTION

Lottery is a type of gambling, where people participate by purchasing tickets and one or more lucky winners receive prizes. The Prize may be money or property. The Term 'lottery' is defined in section 2(b) of Lottery Regulations Act 1988. Lottery is conducted by both government and private sources. In some nations, private lottery business is banned. (Goyder et al. 2019; Granero et al. 2019)

Lottery business generates job opportunities for

lakhs of people as agents and sellers. The Only qualification required for this profession is the age of major. Hence, it is even suitable for unskilled labour. The Profession does not require much physical work. On that account it is noted to be a comfortable job for physically challenged people. (Goyder et al. 2019)

The Government of Madhya Pradesh uses the RTE lottery system to allot seats for students in private schools. 1.77 lakh children bagged seats through an online lottery held in July 2019. Out of which 92 children are physically challenged.

(Goyder et al. 2019; Granero et al. 2019; Haeusler 2019)

Otherwise, Lottery has been observed as a social evil, which has destroyed many households. Poor people tend to buy more lottery tickets compared to wealthy people. Sale of lottery tickets are found to be high in poor colonies. Poor families are likely to invest a major part of their income on the lottery. Hence, they get financially exploited when they lose. (Goyder et al. 2019; Granero et al. 2019; Haeusler 2019; Gambling and National Council on Problem Gambling, n.d.)

## II. OBJECTIVES

The Primary objective of the study is to evaluate the legal status of the lottery in India. The Secondary objective is to study lottery as a contract.

## III. REVIEW OF LITERATURE

Lottery falls under the category of contingent contracts. The Person or organisation which conducts lottery and gives gifts is the promisor while the people who buy the tickets are the promisee. (Deb and Mishra 2014) Lottery tickets were held as 'goods' in *H.Anraj vs Government of Tamil Nadu* case. Offer, acceptance, consideration, consent, legal obligation, capacity, lawful objects are essential for a lottery contract to be valid. ("Contract Services: Some Essentials for Formal Agreements" 1967) This Type of contract contains an additional element called Risk. Both the Promisor and the promisee have the probability to lose their investment. (P. H. Frey and Frey 2000; M. A. Frey 2015)

Minors and people with unsound mind are not allowed to take part in a lottery. Unlike most of the contracts, Insolvent people are competent to lottery contract.(Shaw et al., n.d.) If an insolvent person wins the lottery, he needs to declare the received money or property to the bankruptcy court. ("Lottery," n.d.)Lottery is a nonexempt

asset in a bankruptcy case, hence the court can sell these assets to pay the creditor. The Court can choose for dismissal of the bankruptcy case, when the insolvent tries to hide or fails to reveal the truth regarding winning the lottery. (International Association for Contract and Commercial Management 2013)

Lottery is the major non-tax revenue source in the country. Hon'ble High Court of Bombay held in *Sri Mangal Murty Marketing v State of Maharashtra & Ors* case that taxes from lottery is dealt under Entry 62 of State List in the Seventh Schedule of Indian Constitution. (Jackson 2008; Barboianu 2009)According to the All India Federation of Lottery Trade (AIFLTAI), State of Kerala raised Rs.908 crores of GST and Rs. 1,691 crores of state revenue through lottery for the year 2017- 2018.(Jackson 2008)

In 2015, The Supreme Court of India gave the state government the authority to decide on permit of lottery in their jurisdiction. (Foley 2012b)There is no blanket ban on sale or purchase of lottery tickets.(Bobbitt 2007) Lottery is made legal in the state of Arunachal Pradesh, Assam, Goa, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Manipur, Nagaland, Punjab, Sikkim and West Bengal. (Volpp et al. 2008) Most of the states in India did not permit lottery business in their territory considering its evil side. (Douglas 2001) In 2003, Tamil Nadu Governments banned lottery business in the state with reference to The Lotteries (Regulation) Act 1988.(Kelp 2014)

A State has the power to prohibit the sale of tickets of any other state's lotteries within its jurisdiction as per section 5 of The Lotteries (Regulation) Act 1998.(Douglas 2001) In *M/S. Future Gaming Solutions India Private Limited V. Union of India* case, The Central Government complying to the order of Hon'ble High Court of Delhi, prohibited the sale of Sikkim's State lotteries in the state of Kerala. (Rawlins 2004)

Total	1592	100.0	100.0
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Online lotteries are the latest form of lottery business. Lotteries conducted through computer or internet medium are called Online lottery. (Douven 2013)The Term 'Online lottery' is defined under section 2(1) (e) of Lottery (Regulation) Rules 2010. (Foley 2012a)The Apex court mentioned in *All Kerala Online Lottery Dealers Vs State of Kerala & Ors* case that Online lottery is manipulative game and State of Kerala did no wrong in banning it in its territory. ("Lottery," n.d.)(Foley 2012a; Banks 2016)

#### IV. MATERIALS AND METHODS

The essence of survey method can be explained as "questioning individuals on a topic or topics and then describing their responses". Random sampling method was used for the purpose of this study. The Sampling size is 1592. Independent variables are age, gender, and occupation. Dependent variables are 'Do you think it is necessary for the government to conduct a lottery for running the state efficiently?' and 'Do you agree that lottery should be banned from all sources including governmental sources?'

#### V. RESULT AND ANALYSIS

1.Age

		Freque ncy	Percent	Valid Percent	Cumul ative Percent
Valid	15-30	757	47.6	47.6	47.6
	31-50	661	41.5	41.5	89.1
	50 and above	174	10.9	10.9	100.0

It is observed from the above table that the majority of the responses were between the age of fifteen and thirty. They constitute 47.6% of the total 1592 respondents. 41.5% of the respondents are between the age of thirty one and fifty. The Reminding 10.9% of the respondents are aged above fifty.

2.Occupation

		Frequen cy	Percent	Valid Percent	Cumulati ve Percent
Valid	Business	496	31.2	31.2	31.2
	Employee	454	28.5	28.5	59.7
	Others	143	9.0	9.0	68.7
	Student	499	31.3	31.3	100.0
	Total	1592	100.0	100.0	

From the above table, it is observed that 31.2% respondents do business, 28.5% work as an employee, 31.3% are students and the remaining 9.0% respondents are involved in other occupations.

#### Occupation \* Do you think non-tax revenue earned through lottery is necessary to run a state effectively?

*Null hypothesis:* There is no significant association between non-tax revenue earned through lottery and occupation.

*Alternative hypothesis:* There is significant association between non-tax revenue earned through lottery and occupation.

**Crosstab**

			Do you think non-tax revenue earned through lottery is necessary to run a state effectively?		Total
			Yes	No	
Occupation	Business	Count	203	293	496
		% within Occupation	40.9%	59.1%	100.0%
	Employee	Count	153	301	454
		% within Occupation	33.7%	66.3%	100.0%
	Others	Count	66	77	143
		% within Occupation	46.2%	53.8%	100.0%
	Student	Count	270	229	499
		% within Occupation	54.1%	45.9%	100.0%
Total	Count		692	900	1592
	% within Occupation		43.5%	56.5%	100.0%

It is evident from the above crosstab tabulation that 56.5% of the respondents, who constitute the majority, agree that lottery is not necessary to run a state effectively. Yet, The remaining 43.5% of the respondents think otherwise.

The Pearson Chi Square value mentioned in the above table is 42.339. P value is 0.000, which is less than 0.05. Thus the null hypothesis is accepted. Hence there is no association between the dependent and independent variables.

**Chi-Square Tests**

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	42.339 <sup>a</sup>	3	.000
Likelihood Ratio	42.527	3	.000
N of Valid Cases	1592		

**Occupation \* Do you agree that lottery should be banned from all sources including governmental sources?**

*Null hypothesis:* There is no significant association between lottery to be banned from all sources and occupation.

*Alternative hypothesis:* There is significant association between lottery to be banned from all sources and occupation.

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 62.16.

**Crosstab**

			Do you agree that lottery should be banned from all sources including governmental sources?					Total
			Agree	Disagree	Neutral	Strongly agree	Strongly disagree	
Occupation	Business	Count % within Occupation	57 11.5%	109 22.0%	121 24.4%	155 31.3%	54 10.9%	496 100.0%
	Employee	Count % within Occupation	75 16.5%	68 15.0%	142 31.3%	140 30.8%	29 6.4%	454 100.0%
	Others	Count % within Occupation	29 20.3%	4 2.8%	43 30.1%	29 20.3%	38 26.6%	143 100.0%
	Student	Count % within Occupation	91 18.2%	136 27.3%	174 34.9%	69 13.8%	29 5.8%	499 100.0%
Total		Count % within Occupation	252 15.8%	317 19.9%	480 30.2%	393 24.7%	150 9.4%	1592 100.0%

It is evident from the results that 24.7% (second highest) of the total respondents strongly agreed for the ban of lottery from all sources including governmental, though the majority stayed neutral.

#### Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	157.822 <sup>a</sup>	12	.000
Likelihood Ratio	159.864	12	.000
N of Valid Cases	1592		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 13.47.

The Pearson Chi Square value mentioned in the above table is 157.822 . P value is 0.000, which is less than 0.05. Thus the null hypothesis is accepted. Hence there is no association between the dependent and independent variables.

#### VI. DISCUSSION:

Government lotteries are well organised and systematic. The Main objective of government is to ensure welfare for its citizens. According to public opinion, ill effects of lotteries are minimized under the guidance of the government. The Council in case of *B.R. Enterprises v. State of UP and others* mentioned the differences between lotteries conducted by government and by individuals, with reference to the judgement made in *Fatehchand Himmatlal v. State of Maharashtra* case where court differentiated moneylending by institutions like banks and by traditional moneylenders.

On the other side, Government lotteries are completely not free from ill effects. The Wounds caused by the lottery are so deep and beyond repair. In *R.M.D. Chamarbaugwalla v. Union of India* case, the Supreme Court highlighted the negative effects of the lottery. The Five bench constitutional bench highlighted the ability of the

lottery to push a hard working man into unrecoverable debt and its ability to destroy peace in the families.

These varied versions of people's thoughts have led to the majority of respondents (30.2%) staying neutral, when questioned on banning lotteries from all sources.

## VII. CONCLUSION

Lottery is a form of gambling, which falls under the category of contingent contract. The Term lottery is defined under section 2(b) of Lottery Regulations Act, 1988. In Lottery, The Person or organizations conducting the lottery with a promise to give the gift if the said event occurs, is the promisor while the general public who invest their money by buying lottery tickets are the promisee. The lottery tickets are the goods. The Lottery contains all the essentials elements of general contracts like Offer, acceptance, consideration, consent, legal obligation, capacity, lawful objectives, etc, with an additional element called Risk. Minors and Insane people are not permitted to enter a contract while Insolvent people are a exception.

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