

**AN ANALYSIS ON ILLEGAL ONLINE GAMBLING ACTIVITIES: THE  
COMPARATIVE STUDY WITHIN THE GAUTENG, NORTH WEST AND  
LIMPOPO PROVINCES**

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**-Abstract-**

The fastest growing form of gambling in the world is online gambling. This study is the first step to understanding the reasons behind the mushrooming of illegal online gambling shops around the three provinces as well as the response by the local law enforcement agencies regarding the scourge. The qualitative component consisted of interviews with focus groups from the three selected provinces of Limpopo, Gauteng and North West. From the findings it emerged that illegal online gambling operators have the same mode of operation across the three provinces. The interior and exterior of their shops looks exactly the same. Access controls to the inside of these shops are all controlled by security gates, security personnel and cameras. Slots machines that are played by punters are also the same within the three provinces that are comparable. The most common slots game machine found are sizzling hot, cool diamonds, heart of gold, lucky reels, fire queen, crazy cows, kiss, rainbow riches, and little pigs. Through intensive enquiries by the first author, it has surfaced that software of these slots machines are sourced from foreign countries like Greece, Russia, Malta, Finland and Bulgaria. According to reliable information obtain from one syndicate member by the researcher, this software is not sold to illegal online gambling owners in South Africa, but they pay a retainer fee every month to access the software. Based on the above findings, recommendations are provided to assist relevant stakeholders to address the situation.

**Keywords:** Illegal gambling, Online, Operators

**JEL Classification:** K42, M21

## **1. INTRODUCTION**

The rapidly increasing number of illegal online gambling sites within Limpopo, Gauteng and North West provinces requires an active partnership between members of the South African Police Service (SAPS), National Prosecuting Authority (NPA), National and Provincial Gambling Boards (NPGB), community members and civil society. This will enable the police and Provincial Gambling Boards (PGB) to be effective in eradicating the ever-increasing phenomenon of illegal online gambling activities. The community's buy-in is also important in that once the community understands the risk and danger of participating in these illegal online gambling shops, they will refrain from visiting these shops and also educate one another. These operators create games that compete with traditional gambling operators and can have an impact on formal gambling revenues. This ultimately impacts tax revenue for government, while further consequences include loss of employment opportunities, loss of local economic activity, and an erosion of consumer rights and protection. This shadow industry is exacerbated by the socio-economic challenges which form part of the day-to-day lives of ordinary South Africans, as well as the growth in technology, in the case of online gambling. This has allowed online gambling to become a faceless adversary for regulators due to its borderless nature and modus operandi, making regulations and law enforcement even more difficult and challenging (National Gambling Board, 2016:1).

## **2. RELEVANT THEORITICAL FRAMEWORK**

According to the Complete Wiehahn Report on Gambling in South Africa (1995: 40-42), very few sources exist on the history of gambling in South Africa. Consequently, little is known about the leisure-time activities of the inhabitants and early settlers. Some sources claim, in passing, that some forms of gambling, as a pastime activity, were conducted in the late 17<sup>th</sup> century and during the 18<sup>th</sup> century. It is assumed that sailors who visited the Cape after the establishment of the first European settlements must have practised some form of gambling, as did the soldiers stationed there. It is also assumed that some form of gambling must have been practised by the indigenous people of South Africa before the arrival of European settlers; however, very little information is available on this subject (Wiehahn, 1995:40).

Exploitation, crime and other undesirable social phenomena gave rise to the promulgation of the Lotteries Prohibition Act (Act 9 of 1889). This act prohibited lotteries and dealt severe penalties to offenders. The discovery of diamonds and

gold, with its influx of fortune seekers, journeymen and associated labourers, catapulted South Africa into its own industrial revolution. Many of these people came through the Cape. In addition, thousands of British troops on their way to the front of the Anglo-Boer War of 1899-1902 disembarked in Cape Town, where they stayed in preparation for transfer. Prostitution and gambling flourished and led to an untenable situation for the Cape government. As a consequence, the Betting House, Gaming Houses and Brothels Suppression Act (Act 36 of 1902) was promulgated. As its title indicates, it endeavoured to suppress gambling and prostitution in the Cape and generally aimed at controlling immorality (Wiehahn, 1995:40). Haugen and Musser (2007:27), however, maintain that the risks in gambling are artificially created and remain part of the creative process. Gambling clearly provides a kind of recreational excitement for some, but the cost to individuals, families, the economy, and society is too high to justify the action. Alternatively, Milton (2001:99), maintains that sometimes gamblers feel socially isolated as their problems are financial, and the associated feelings are often so unpleasant that gambling is seen as the best way in which to escape from these problems for a while.

### **3. STATEMENT OF THE PROBLEM**

The problem necessitating the study was the mushrooming of illegal online gambling sites (hereafter referred to as either sites or shops), more commonly known as Internet or server-based gambling, within the provinces of Limpopo, Gauteng and North West. On numerous occasions, the researcher conducted raids on alleged illegal online gambling sites and upon the arrest of illegal gamblers, noticed that these gamblers were surprised as they were under the impression that these illegal sites were erected to supplement land-based casinos, in areas where there are no land-based casinos or other forms of legal and licensed gambling sites. However, the extent of the problem became more complex when investigations that were conducted to identify lawful site owners did not yield any expected results. Employees operating the business could not even identify their employers, as some employees alleged that they were employed telephonically and had never undergone any formal interview process. In most instances, employees only knew their managers but not their employers. The results from the investigation and prosecution on illegal online gambling activities from the three provinces are a clear indicator that this is a new cybercrime trend; one that the law enforcement agencies within South Africa are not yet adequately trained to respond to.

## **4. RESEARCH METHODS**

### **4.1 Nature of research**

For the purpose of this research, a qualitative research approach was deemed the best approach, which focuses on individual experiences. Interview is “a specialised form of communication between people for a specific purpose associated with some agreed subject matter” (Anderson, 1990:222). As the purpose of the research interview is to obtain research-relevant information from the interviewee, it is centred on the evidence to be generated for achieving the research objectives of describing, predicting or explaining the phenomenon (Cohen & Manion, 2007). As compared to other techniques of data collection e.g. questionnaire, observation, etc., interview may serve as a rich source for exploring people’s inner feelings and attitudes. According to Wisker (2001), the use of interview is highly desirable for obtaining information based on (i) emotions, feelings, experiences, (ii) sensitive issues and, (iii) insider experience, privileged insights and experiences. De Vos (2002: 79) supports this type of approach when dealing with experiences of participants and the meaning which they attach to these experiences and defines the qualitative research paradigm as research that elicits a participatory account of meaning, experience and perception. It aims to understand social life and the meaning that people attain to their everyday life. The abovementioned characteristics are relevant to this paper.

### **4.2 Population and sampling**

The population for this study consisted of all police officials involved in crime prevention, detective’s duties and patrol duties at the selected police stations were interviewed, who were also have an insight of illegal online gambling activities within the three identified provinces; clarity regarding factors that contribute to the increase of illegal online gambling shops. Due to the nature of the study, an in-depth, and time consuming analyses of each case was made, as only a small group of three focus group discussions. According to Wimmer and Dominick (1987:70) two types of sampling methods exists. These are, probability (where the probability of selection is known or the universum’s boundaries are known), and non-probability sampling (where the probability of sampling is unknown or the universum’s boundaries are not known) techniques. In the current paper, the universum’s boundaries are known, hence the decision to make use of the latter sampling (non-probability sampling) technique was taken. This decision is supported by De Vos (2002:334). He infers that in qualitative studies non-probability sampling technique is used almost without exception because of the

relativeness of boundaries. Hagan (1997:136) identifies seven types of non-probability sampling techniques. These are, convenience, purposive (judgemental), snowball, quota, theoretical, partial, and the saturation non-probability sampling techniques.

For purposes of this paper, a purposive non-probability sampling technique was applied. The reason for this choice was to identify key participants that are involved in the day-to-day investigation as well as pro-active policing of illegal online gambling in the three provinces. This implies that those police officers that are performing support service functions (like logistics, finance, human resource, and administration) were excluded from this study. For this study, three focus-group interviews were conducted consisting of eight participants each as recommended by Krueger and Casey (2009:1). A focus group interview provides a setting for the relatively homogeneous group to reflect on the questions asked by the interviewer. According to Krueger and Casey (2000:11), focus group provides “a more natural environment than that of individual interview because participants are influencing and influenced by others- just as they are in real life”. For the purpose of complementing data gathering method in addition to the literature study, three FGDs were conducted: (1) With the SAPS Limpopo Province officers (8 participants) (2) with the SAPS Gauteng officers (8 participants); (3) with the SAPS officers from North West Province (8 participants). In order to invite participants to the FGDs, information sessions were held, open calls by means of e-mail and telephone communications were also sent to potential participants after authorisation to conduct the study was obtained from the SAPS.

#### **4.3 Data collection**

For the purpose of complementing data gathering method in addition to the literature study, three focus group discussions (FGDs) were conducted. Permission for data collection was approved by the three SAPS Provincial Commissioners of Limpopo, Gauteng and North West provinces. For the NPA, permission was granted by the Director of Public Prosecutions in Polokwane, Limpopo. Data was collected by utilising unstructured interviews to identified focus groups. Each of South Africa’s nine provinces is divided into policing areas. The following SAPS Clusters, police stations, district and regional courts were visited around Gauteng: Benoni, Pretoria North, Sunnyside, Kempton Park, Hercules, Krugersdorp and Randfontein. In North West, the following SAPS Clusters, police stations, district and regional courts were visited: Brits, Rustenburg and Marikana. Conversely,

participants in a smaller group may feel an uncomfortable pressure to talk more than they would otherwise to fill dead air.

Size of group also can depend upon the experience and comfort of the facilitator with conducting discussions (Krueger & Casey, 2000, 2009). The phenomenological approach was used to understand the everyday experience of the participants. According to Creswell (1998:51-52) phenomenological studies describe the meaning of the life experience of a phenomenon by several individuals.

#### **4.4 Data analysis**

Informed by authors such as Cohen, Manion and Morrison (2007, 2011) and Punch (2005:195-209) the authors selectively analysed aspects of the human actions and events that illustrated recurring themes from the interviews. The authors attempted to go beyond descriptive analysis and add a theoretical dimension. The interviews were transcribed and concepts were coded. The concepts were categorised into higher order concepts and then, through Axial (or theoretical) coding, connections were discovered between the thematic concepts. Data were interpreted from a constructivist framework. The participants were encouraged to participate in the data interpretation, and to check that data interpretation were accurate and in accordance with their experiences. The data analysis unfolded as a continuous process, starting from the initial meeting with potential participant. Other potential participants were eliminated from the research due to the lack of depth of their experience compared to that of the chosen participant, as was revealed during the informal conversations authors had leading up to the start of the research process.

Using ATLAS.ti, version 4.2 (ATLAS.ti, 1999) qualitative information were coded via a data-driven process using the risk and protective factors as preliminary categories. Following Braun and Clarke's (2013); Braun, Clarke and Rance (2014) as well as Braun, Clarke and Terry (2014) guidelines for thematic analysis, the transcript were read, re-read and coded into salient themes. These themes were then either collapsed into one another to form larger themes. Themes were labelled and defined. The organising of themes were further structured into a tabular format and categorised into broader global themes (Attride-String, 2001: 385-405). While this process was cyclical and requires multiple levels of re-reading and recording, the results were presented linearly for the purpose of clarity. After having collected data, the researcher compared and contrasts the information given and then interprets the data (Fink, 1995:43).

All interviews were transcribed and then studied several times in conjunction with the corresponding non-verbal clues given by the participants. Field notes provided further guidance during the data-analysis process, supporting the process of dividing the data into identifiable themes. During the process, the results were verified continuously by means of audio and visual recordings of the interviews, which proved very helpful as a means of ensuring data quality. This also provided the opportunity to follow a process by which the different themes could be compared and relations between the different themes could be studied, so as to become aware of patterns that could be categorised. The broad questions asked in the interviews were as follows:

- Tell me about your experience of handling illegal online gambling at your policing area?
- What can be done to facilitate the reduction of illegal online gambling?

The interviews lasted between 30 and 45 minutes each and were audio-taped, then transcribed for data analysis. Interviews were conducted in English as the researcher has the understanding that the entry level requirement for SAPS members is Grade 12, and therefore all members within the SAPS should be in a better position to understand English. All the FGDs were interviewed once and each interview continued until all questions, including probing questions, were asked and answered. A summary of the main data categories and the sub-categories is presented in the form of themes. Two processes were followed to ensure effective data control. Firstly, all questions asked were written down and then studied several times. Secondly, data results were compared with existing literature, to identify similarities or discrepancies that might call for further research in future. In addition, field notes that were also written down provided further guidance during the data-analysis process, supporting the process of dividing the data into identifiable themes. Data analysis yielded three themes: (1) definition of illegal online gambling, (2) prevalence of illegal online gambling in the province, and (3) reasons behind unsuccessful prosecution of illegal online gambling.

## **5. EMERGING THEMES AND DISCUSSIONS**

### **5.1 Theme 1: Definition of illegal online gambling**

#### **FGDs 1 (Limpopo Province) responses**

Participants were asked to provide their own understanding and definition of illegal online gambling. The majority of participants indicated that illegal online gambling

refers to gambling that is conducted with touch screen computers, through Internet connections within shops that look like Casinos. This group further indicated that it is also called e-gambling, computer gambling or server-based gambling because it is conducted online. Four participants indicated that they were not sure what was happening, but specified that there must be a server located somewhere that controls interactive games. The following are some responses from participants during interviews:

*Online gambling is gambling that is conducted with touch screen computers without keyboards (P5).*

*Illegal online gambling is conducted within sites that look like small casinos, and it is conducted with computers and not slots machines (P7).*

The above discussions indicated that different individuals may define illegal online gambling differently. Many people call it Internet gambling for the simple reason that it is conducted through a computer with an Internet connection. Some call it online gambling simply because the connections inside the shop had a telecom line with an Internet Protocol Address (IP). Some call it server-based gambling because each shop is connected to a server which is located at unknown locations. Some called it e-gambling simple because it is conducted through the Internet, and computer gambling because it is accessed through a computer and not slots machines.

#### **FGDs 2 (Gauteng Province) responses**

Similar to Limpopo, participants were asked to provide their own understanding of illegal online gambling. Through this FGDS, participants indicated that online gambling is gambling conducted through internet with computers. Participants further indicated that it is an unregistered business that takes money out of the country. Three participants were of the view that though they were not aware of what online gambling is, it sounds similar to a minor crime to them and it was never registered within their police station, as they dealt with serious crimes. The following was a response from a participant during interviews:

*Gambling within this police station is not seen as a serious crime, we deal with most serious crimes here, online gambling sound very minor (P8).*

From the above discussion, it is clear that comparable to Limpopo, police officers who are familiar with illegal online gambling activities within Gauteng agreed that



it is gambling conducted through internet or that there must be an internet connection and a computer for the crime to be committed. Similarities with Limpopo are that there must be an internet connection and a computer for gambling to take place.

### **FGDs 3 (North West Province) responses**

Similar to findings observed at Limpopo and Gauteng FGDs, participants at North West were also asked to indicate their own understanding of illegal online gambling. Similarly to Limpopo and Gauteng, the majority of the participants indicated that online gambling is gambling conducted through the Internet using a computer, illegal connections or wireless connections. The following was a response from a participant during interviews:

*Online gambling is gambling conducted through Internet connections, it may either be illegal or wireless connections (P5).*

From the response above, comparable to Limpopo and Gauteng, participants in North West indicated similarities in that illegal online gambling is conducted through computers with Internet connection. The only difference brought forward by North West participants was that the connection may occasionally be through illegal connections or wireless connections.

## **5.2 Theme 2: Prevalence of illegal gambling in your province**

### **FGDs 1 (Limpopo Province) responses**

In this theme, participants were asked to indicate the prevalent status of illegal online gambling within their province. The majority of the participants indicated that illegal online gambling was prevalent within Limpopo, whereas some indicated that illegal online gambling was not a challenge. However, those that indicated that illegal online gambling was not prevalent agreed that such shops exist within their policing areas but they were not aware of what was happening inside those shops until they were informed by the first author. It has been observed by the authors that this crime was unknown within a number of police stations around Limpopo and therefore it was not comprehensively investigated. The following are some responses from participants during interviews:

*There are three shops operating like casinos here in Lephalale, we all thought they were licensed (P8).*

*Most towns and villages within Limpopo Province have one or two of these shops operating as casinos (P10).*

From the above discussions, it was clear that in certain instances, police officers on patrol, crime prevention and investigation duties visited these shops during their tour of duties but failed to question the types of business activities conducted inside these shops. Police officers attended to complaints ranging from theft, common robbery, assault and complaints were illegal gambling operators failed to pay winning to punters. In certain circumstances, police officers were regular clients of these illegal gambling operators.

### **FGDs 2 (Gauteng Province) responses**

Through this theme, participants were asked to present how widespread illegal online gambling is within their province. The majority of participants indicated that illegal online gambling was prevalent within their policing area. Through the SAPS Clusters that were visited, [participants counted up to thirty-three illegal online gambling shops that they are aware of. This group further indicated that two police stations within Ekurhuleni, which are Benoni and Kempton, have sixteen illegal online gambling shops that the police were aware of, which they thought were genuine Internet Cafés. The following was a response from a participant during interviews:

*We were under the impression that these are ordinary Internet Café that helps people with photo copies and other internet activities (P6).*

From the above discussion, it was clear that comparable to Limpopo, illegal online gambling was prevalent within Gauteng. Similar to Limpopo, SAPS members regularly attended to complaints reported from these illegal online gambling shops. Complaints attended by the police officers within these shops ranged from fighting among gamblers, theft of cell phones, dealing in illicit drugs, prostitution around and within the shops, extreme noise as some shops operate until 03:00 and 04:00 in the morning and refusal of payments by illegal operators when punters won huge amounts of cash.

### **FGDs 3 (North West Province) responses**

There was a high level of agreement with Limpopo and Gauteng in that the majority of the participants indicated that illegal online gambling was prevalent within their policing areas, as there are more than eleven illegal online gambling shops within

their policing area. The remaining participants indicated that illegal online gambling was not so prevalent within their policing area, as there was only one shop and it closed down after the police had made regular follow-up enquiring about its activities. The following are some responses from participants during interviews:

*These Internet Cafés shops are almost situated within several streets within Brits (P8).*

*There are more Internet Café shops around the mining areas of Rustenburg including Marikana (P3).*

The above findings clearly indicated that similar to Limpopo and Gauteng, illegal online gambling activities were widespread around North West. There are more shops within the mining areas of Rustenburg and Brits, which the challenge of illegal online gambling was again similar with that experienced in Limpopo and Gauteng Provinces. These are areas that are more congested with people due to mining activities.

### **5.3 Theme 3: Reasons behind unsuccessful prosecution of illegal online gambling**

#### **FGDs 1 (Limpopo Province) responses**

This theme received mixed reactions from participants. Some of the participants were of the view that both the police and prosecutors lack enough knowledge to investigate and prosecute illegal online gambling as a crime. Eight participants indicated that it is due to the North Gauteng High Court order that requires that exhibits be returned to the owner as they were confiscated with a defective Search and Seizure Warrant, and this makes it difficult for the prosecution team to prove the crime committed. On the other hand, some indicated that the police and inspectors from the Gambling Board are not able to collect relevant, digital and prosecutable evidence properly during their investigation. The following are some responses from participants during interviews:

*Relevant digital evidence, which would be prosecutable by prosecutors, is not collected during investigation to assist the magistrate to understand the seriousness of the crime (P9).*

*Once exhibits are returned to the owner through the North Gauteng High Court order, it remains difficult to prove the commission of crime before the magistrate (P7).*

The modus operandi of illegal online gambling operators and their defence attorneys is to attentively continue to challenge the legality of the Search and Seizure Warrant executed during the raid, at the North Gauteng High Court. The defence attorneys put into practice the process by creating a civil case from a criminal case. This process will then force the criminal process to wait for the outcome of the civil matter, as this can only be done within a higher court (North Gauteng High Court). The order given by the North Gauteng High Court will ultimately determine whether the magistrate court can continue with prosecution of the case. If the High Court order indicates that exhibits be returned to the owner due to a defective Search and Seizure Warrant, the prosecution process within a district court will definitely be stopped as it will be regarded as malicious prosecution.

*Illegal online gambling operators are foreign nationals who came to South Africa to loot money illegally and to corrupt government officials including SAPS and Gambling Board Inspectors (P8).*

From the above findings, it was clear that illegal gambling operators were targeting mining areas, due to their influx in population. This has been identified within towns like Phalaborwa, Burgersfort, Thabazimbi and Lephalale, which each town having three to four illegal online gambling shops. This response advocated the fact that illegal online gambling operators operate with a sole purpose of accumulating money, irrespective of the restrictions and laws in South Africa. Secondly, participants raised a serious and hazardous point in that illegal gambling operators are foreign nationals who undermined the laws of South Africa. The seriousness of this response was that they were correct; many illegal gambling operators are foreign nationals from countries like Russia, Bulgaria, Malta, Finland and Greece.

#### **FGDs 2 (Gauteng Province) responses**

The participants indicated that even though illegal online gambling cases were never reported within their police stations, they alleged that unsuccessful prosecution emanated from lack of knowledge and skills towards illegal online gambling as a crime. This group further indicated that for successful prosecution in any crime, prosecutors need more evidence to prove the offender guilty. Seven participants considered that there was a great gap between SAPS and NPA in terms of understanding cybercrime in general. This group further identified the lack of resources towards the investigation and prosecution of cybercrime. Investigators require resources that will be able to extract digital evidence from these computers,

switched off or not. From the above findings it was clear that for successful prosecution, the police need to provide prosecutors with dockets that are ready for trial. 'Ready for trial' means that the docket must contain all relevant evidence, the crime committed should be clearly defined, relevant witnesses must have been subpoenaed to appear in court and the investigating officer must also be ready to testify. Similar to Limpopo, the defence attorneys in Gauteng would disturb this process by lodging an urgent application at the South Gauteng High Court challenging the validity of the Search and Seizure Warrant. Through this process, the defence attorneys put into practice the process of bringing a civil matter ahead of the criminal matter, force the criminal process to wait for the outcome of the civil matter, as this can only be done within a higher court (South Gauteng High Court). The order given by the South Gauteng High Court will ultimately determine to whether the district court can continue in prosecuting the case or not.

### **FGDs 3 (North West Province) responses**

From this theme, it emerged that the participants indicated that dockets that were submitted to courts by SAPS members were not properly investigated and compiled. This group further mentioned that elements of the committed crime were not clearly explained in the statements from the complainant to strengthen their cases. Digital evidence including all forms of evidence were not properly collected and submitted to the prosecuting authorities to strengthen the case. These allowed the North Gauteng High Court to have negative influences which affect the outcome of the prosecution. The following are some responses from participants during interviews:

*All elements of the committed crime must be included in the statement for the purpose of proving the crime (P7).*

*The North Gauteng High Court orders have an influential effect on the prosecution outcomes (P2).*

From the above findings, it was clear that dockets that were submitted to courts by SAPS members were not properly compiled and investigated, including the Prosecutor's Charge sheet. Similar to Limpopo and Gauteng, cases in North West are first referred to the North Gauteng High Court as civil matters in challenge of the Search and Seizure Warrant by the defence attorneys.

## **7. CONCLUSION AND RECOMMENDATIONS**

The findings indicated that the general understanding and the meaning of illegal online gambling, computer gambling or server-based gambling was similar from participants within the three provinces of Gauteng, Limpopo and North West. Participants from the three identified provinces indicated that generally, it is a form of gambling conducted with computers through an Internet connection. The participants were of the view that illegal online was not inherently labour intensive and thus the government remains sceptical that legalising online gambling will produce significant jobs compared to other regulated activities like casinos. The general similarities that connect participants from the three provinces were their understanding of illegal online gambling as, firstly a form of gambling, secondly, that it is conducted through computers and thirdly that there must be internet connections or wireless connections that allows the linkage between the shop and the server. From the three provinces, majority from the FGDs concurred that illegal online gambling operators are offering illegal online gambling to the public under the disguise of Internet Cafés.

In general, some of participants across the three provinces, who have never visited these shops within the three provinces, clearly indicated that they did not understand activities conducted by these shops. Other general similarities within the three provinces were that the right of admission into these shops are controlled by either a security guard or two security gates. Going forward, it is therefore, recommended that the establishment of a national consumer protection framework (national framework). The aim is to empower individual gamblers to ensure that problem gambling is minimised. The SAPS does not have adequate capacity to respond to every new emerging crime like for example, illegal online gambling. It is therefore, important to improve the inspectorate capacity to ensure better collection of evidence to present to prosecutors. No measure will completely eliminate the illegal online gambling, but the collaboration of relevant stakeholders towards disruption and reduction measures will make a significant difference, as has been demonstrated by other nations.

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