



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

GOVERNANCE OF GAMING IN INDIA: A COMPREHENSIVE LEGAL ANALYSIS

Author - Nisarg Soni
5th Year Bba.Llb Student
Navrachana University

Co-Author - Vidyamaan Singhal
Assistant Professor
Navrachana University

GOVERNANCE OF GAMING IN INDIA: A COMPREHENSIVE LEGAL ANALYSIS

The evolution of gaming law in India has emerged as a complex legal and constitutional issue with increasing relevance in the digital age. The dramatic growth of online gaming platforms, including fantasy sports, poker, and rummy, has prompted a fundamental legal question: Should these games be categorised as games of skill or games of chance? This classification carries significant implications under Indian law. Games of skill enjoy constitutional protection under Article 19(1)(g) of the Constitution of India, which guarantees the right to practice any profession, trade, or business, subject to reasonable restrictions under Article 19(6). In contrast, games of chance are associated with gambling and are either prohibited or strictly regulated under the Public Gambling Act, 1867 and the corresponding state-level legislations.¹

The fundamental difference between skill and chance plays a very important role in establishing the legality of games played with stakes. This issue first came under the scrutiny of the Supreme Court in *R.M.D. Chamarbaugwala v. Union of India*², where the Court held that competitions involving substantial skill fall outside the ambit of gambling laws and are protected commercial activities. This precedent established the "predominance of skill test," which has since been applied to various games to determine their legal character. In *K.R. Lakshmanan v. State of Tamil Nadu*³, the Supreme Court reaffirmed this approach by declaring horse racing a game of skill. This judicial doctrine became the foundation for subsequent High Court decisions concerning online gaming.

¹ Public Gambling Act, 1867

² *R.M.D. Chamarbaugwala v. Union of India*, AIR 1958 SC 628.

³ *K.R. Lakshmana v. state of Tamil Nadu*, 1996 SC 226.

The scope of judicial interpretation has continued to evolve. In *State of Andhra Pradesh v. K. Satyanarayana*⁴, the Supreme Court recognised that rummy requires a substantial degree of skill and cannot be categorised purely as a game of chance. Following this reasoning, the Punjab and Haryana High Court in *Varun Gumber v. Union Territory of Chandigarh*⁵ upheld the legality of fantasy sports, ruling that participation in fantasy leagues requires careful analysis and strategic decision-making, thus amounting to a game of skill. Similarly, the Karnataka High Court in *Indian Poker Association v. State of Karnataka*⁶ observed that poker involves mathematical reasoning and analytical thinking, which are indicators of skill dominance. These rulings have significantly contributed to the legal protection enjoyed by online skill-based games in India.

In respect of this emerging jurisprudence, the legal position of these games is still reeling in confusion because of its discrepancies between the central law and state laws. In India, it is still the main law of the land, as the Public Gambling Act, 1867, is an old British law, and there is no other legislation on bookies. The authority to make laws in relation to betting and gambling, however, is the prerogative of the states under Entry 34 of the State List in the Seventh Schedule of the Constitution.

The Constitution of India have limited guidance in resolving these conflicts. While Entry 34 of the State List confers power to regulate betting and gambling to states, Entries 31 and 42 of the Union List empower Parliament to regulate communication and inter-state trade, respectively.⁷ This overlap results in jurisdictional ambiguity when online gaming platforms operate across multiple states via the internet. With respect to online gaming, the first step towards regulating it was via the introduction of Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2023. Notified under the Information Technology Act, 2000, these rules mark the first attempt by the central government to regulate online gaming platforms. The rules introduced a framework for self-regulation, requiring online gaming intermediaries to perform Know Your Customer (KYC) checks, display addiction warnings, and register with self-regulatory bodies approved by the Ministry of Electronics and Information Technology.⁸ The policy also lays out the difference between real money games that are permitted and those

⁴ *State of Andhra Pradesh v. Satyanarayana* AIR 1968 SC 825.

⁵ *Varun Gumber v. Union Territory of Chandigarh*, CWP No. 7559/2013 (P&H High court).

⁶ *Indian Poker Association v. State of Karnataka*, WP no. 39167/2013 (Karnataka High court).

⁷ India Const. art. 246, sch.7, List 1, Entry 31, Entry 42; List 2, Entry 34.

⁸ Information Technology Rules, 2023, G.S.R 174(E).

that are not, which has given some form of acknowledgement to games of skill.

More recently, the Government introduced the Promotion and Regulation of Online Gaming Act, 2025. The introduction of the 2025 Act is a historic step that brings sanity to the currently disjointed online-gaming regime in India. It aims to strike a balance between the two aims of enhancing innovation and entrepreneurship in legitimate gaming, including e-sports and skill-based games, and ensuring consumers and the general interest are not harmed by gambling. The Act establishes a common set of rules of law nationwide that replaces inconsistent state regulations and establishes a rule regarding the difference between a game of skill and a game of chance. The Act provides the Central Online Gaming Authority (COGA) as the highest authority in the industry to regulate the process of licensing, compliance, and adjudication in the industry. COGA has the authority to categorise games as being skill, chance or a combination of the two, and to license, renew or revoke a license; and to frame secondary regulations. In this scheme, skill and e-sports platforms can be licensed and obliged to conduct responsible-gaming in line with the law, but chance-based or wagering games are illegal. An obligatory licensing and disclosure system is used to cover all online gaming intermediaries. The operators shall receive prior permission, have open fee frameworks, availability of probability-of-winning information, and comply with the Know-Your-Customer (KYC) and age-verification measures to avoid letting minors use restricted material to prevent targeted advertisements. To create responsible gaming the Act stipulates that platforms must offer self-exclusion features, time and money restrictions, and visible signs of addiction awareness. The operator will have segregated customer accounts such that user deposits and winnings are not subject to corporate liabilities.

THE ORIGIN OF LEGAL FRAMEWORK REGULATING GAMING IN INDIA:

1. Public Gambling Act

The first major statutory tool to govern gambling in India is the Public Gambling Act, 1867(PGA). It was passed in the colonial era and its stated purpose was that of maintaining order in the society: to criminalise so-called common gambling houses and open betting that were interpreted to be a threat to moral and social order. The Act makes it a criminal offence to maintain or be present at a so-called common gambling house, and the police are vested with the authority to raid the premises and confiscate the gaming equipment. And, crucially to the

modern jurisprudence, the Act provides an exemption of wholesale to so-called games of mere skill. The PGA continues to be active in other regions of India (without being ousted or corrected by state law), and the courts have had to interpret the sparse language of the law in the evolving practice, which is primarily online gambling. Courts have played a key role in addressing the deficiencies of the PGA through the process of developing the "predominance", or "preponderance" test: if an outcome of an activity is predominantly determined by skill rather than chance, the activity does not constitute gambling, separated from the definition of the PGA.

Although the PGA was able to provide a legislative basis in the 19th century, it has several, interconnected concerns in the 21st century setting. To begin with, the Act is dated nature. An output of corporeal gambling establishments and an era of pre-electronic communication, the Act includes no clauses that cover remote platforms and electronic wallets, international operators, algorithmic randomisers, and contemporary skill-gaming economic modelling. The terms common gaming house is a term of physical location and just cannot be translated to randomisers, apps, or websites, as well.⁹ Moreover, the definitions of the Act are not very specific and helpful. The term games of mere skill lacks definition and thus can be interpreted in an ambiguous way that is used to the fullest by regulators, litigants and law enforcement agencies.

Also, the PGA is a law of punishment. It is not a regulating law that aims at regulating. The Act provides no provisions to licensing, consumer protection, safety of players, age, anti-money laundering protection, resolution of disputes, and all these are the basic key factors of a regulated industry in an online arena. The Act does not worry about criminal sanctions, and this is precisely where the punitive aspect of the PGA comes in since it lacks an administrative regulatory plan.¹⁰ Additionally, the operation of the PGA is in conflict with a variety of state approaches since gambling is a State List subject in the Constitution (Entry 34, List II).¹¹ Indicatively, the PGA has been maintained in certain states, and adopted with a strict ban (e.g., Telangana, Andhra Pradesh historically), and others with a licensure strategy (e.g., Sikkim,

⁹ Justice K. K. Mathew, *Gambling and the Law in India*, 1968.

¹⁰ Law Commission of India, Report No.276 *Legal Framework: Gambling and Sports Betting in India Including Cricket in India*, 2018, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://images.assettype.com/barandbench/import/2018/07/Report276.pdf?utm_

¹¹ INDIA CONST. art. 246, sched. VII, list II, entry 34.

Nagaland). This brings confusion in the law and regulatory uncertainty to those operators and users that cross state boundaries. Lastly, enforcement has been historically associated with collateral harms: non-enforcement leads to the movement of markets to the underground, whereas excessive enforcement encourages arbitrary crack-downs on legitimate market, skill-based players, and harassing players. The net effect is the uncertainty of the law, business risk and unequal consumer protection.

The PGA made its second historical contribution, which is the legislative skill-exemption, a two-sided sword. On the one hand, the exemption has permitted courts to create a pro-industry jurisprudence, which secures legitimate gaming skill. Conversely, the colonialist drafting of the PGA, its ambiguity, and criminal orientation render it inappropriate to the contemporary online environment. In practice, the PGA ought to be superseded or overhauled entirely by new legislation providing that: (a) defines with objective principles what constitutes predominant skill; (b) establishes licensing, consumer protection, AML and age-verification frameworks; (c) puts into clarity the relationship between central and state competence.

2. Information Technology Act, 2000

The Information Technology Act, 2000 (IT Act) is the main statute of cyber-law in India. Law passed to give statutory effect to electronic transactions, as well as to counter cyber-crimes in general, it includes enforcement tools (e.g., blocking powers under Section 69A) that have been deployed to both restrict the content accessible on the Internet, and, in practice, to block unlicensed gambling and betting sites that have established themselves off-shore.¹² In *Junglee Games India Pvt. Ltd. v. State of Tamil Nadu*¹³ the Madras High Court invalidated the Tamil Nadu Act prohibiting internet rummy and poker, affirming constitutional protection for games of skill, and limiting the reach of the state's prohibition into cyberspace. In *All India Gaming Federation v. State of Karnataka*¹⁴, the High Court of Karnataka struck down a total ban on internet gaming, and reiterated that both the legislature and the executive must act in a proportional manner consistent with the current constitutional jurisprudence.

The IT Act introduces enforcement capability (blocking, takedown, intermediary liability) but is not a gaming law, and, so, poses issues where it is applied as a de facto gaming law. The

¹² The Information Technology Act, INDIA CODE 2000.

¹³ *Junglee Games India Pvt. Ltd. v. State of Tamil Nadu*, WP No. 18022/2020.

¹⁴ *All India Gaming Fed'n v. State of Karnataka*, 8703 of 2021.

broad blocking capacities of the IT Act need not be backed up by a specific gaming rulebook: blocking orders can be used against illegal operators, although they are also open to misuse in a way that restricts legitimate services, especially where the line between skill and chance is disputed. Also, the Act does not contain sector-specific norms: it does not mention any game-design fairness, certification of randomness, audit of prizes, redress of consumer grievances in case of opposing gameplay, or transparency of platforms.

Enforcement under the IT Act is thus crude. The agencies that rely on the IT Act to block are commonly faced with jurisdiction problems with offshore operators e.g. how do we force foreign hosting companies, how do we recover customer refunds, how do we trace cross-border flows, all which point to the limitations of the IT Act as a gaming enforcement mechanism.¹⁵ There is the issue of executive blocking which is subject to constitutional and procedural issues. There have been concerns by the stakeholders on the transparency of the blocking orders, sufficiency of the notice and hearing, and the ability to challenge them in court, particularly where lawful businesses and users are involved.¹⁶ Although the IT Act serves as an important tool for law enforcement to combat online harms, it should not replace an appropriate gaming statute. Policymakers should protect their utility for enforcement for offshore actors that are genuinely illegal, while simultaneously implementing sector-specific regulations on platform transparency, user protection, verification and auditability of randomising tools, data localisation when appropriate and dispute resolution. Procedural protections should be built in to ensure limiting orders are transparent, proportionate and subject to review.

NEED FOR CHANGE:

The Law Commission's Report No. 276, Legal Framework: Gambling and Sports Betting in India, Including Cricket in India (2018) was a significant shift ; encouraging regulation (including licensing and taxation) instead of prohibition.¹⁷ The recommendations were specific; Aadhaar/PAN connection, stake limits, exclusionary provisions, monitoring, and a licensing regime. The problems, like Political Feasibility- The Report had underestimated the social opposition of legalizing gambling. Legislatures will not want to enact systems that can be seen as encouraging vice. Furthermore, federal puzzle - The Report suggested a central oversight system that can usurp the State List, which presents constitutional conflict with the state

¹⁵ Ministry of Electronics & Info. Tech., Blocking Rules under Section 69A of the IT Act, 2009.

¹⁶ Anushka Jain, INTERNET FREEDOM FOUNDATION, *Analysis of IT Blocking Orders in India*, 2021, available at <https://internetfreedom.in/website-blocking-orders-2021>.

¹⁷ *Supra* note 10.

powers.¹⁸, Implementation capacity - the report has ambitious safeguards (real time surveillance, caps, exclusion lists) that need administrative capacity, technology and funding that is not available across all states in a consistent manner.¹⁹ Moreover, social safeguards vs. normalisation; Critics say that the Report will tend to normalise gambling; despite the safeguards, legal accessibility makes access and risk more accessible.²⁰

STEPS TAKEN TO BRING ABOUT CHANGE:

1. IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 And 2023 Amendments

The IT Rules, 2021 were made to apply due-diligence obligations on the digital intermediaries; namely platforms, hosts, and app stores.²¹ However, in 2023, MeitY amended the Rules to expressly deal with online gaming: defining "permissible online real-money games," outlining obligations for intermediaries and requiring that intermediaries be self-regulatory certified to their compliance.²² The amendments are an effort to create some form of a central executive framework that recognises certain online skill games, while also empowering the Centre to overlook intermediaries. The High Court rulings in *Junglee Games India Pvt. Ltd. v. State of Tamil Nadu*²³ and *All India Gaming Fed'n v. State of Karnataka*²⁴ have overturned state prohibitions and declared the right to play skill games as protected by the Constitution. These rulings place a heavy burden on dealing with state blocking or executive takedowns where the underlying issue is a protected skill game, but it does not answer how overarching administrative rules, such as the IT Rules, operate in conjunction with state laws.

Legal and Constitutional Ambiguity: The Rules identify online gaming activities that are permissible and require obligations of due diligence for intermediaries. However, because gambling is a subject of the State List of the Constitution,²⁵ there may be conflicts with federal legislation that deals with the substance of gaming (by defining something as permissible). In

¹⁸ INDIA CONST. art. 246, sched. VII, list II, entry 34.

¹⁹ *Supra* note 10.

²⁰ Anay Mehrotra and Puneet Srivastava, VIDHI CENTRE FOR LEGAL POLICY, *Online Gaming Platforms and Self-Regulation*, 2021, available at <https://vidhilegalpolicy.in/blog/online-gaming-platforms-and-self-regulation/>.

²¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, Gazette of India, G.S.R. 139(E), 2021.

²² Ministry of Electronics & Info. Tech., Press Release on IT Rules Amendments, 2025, available at <https://www.meity.gov.in/static/uploads/2025/10/708f6a344c74249c2e1bbb6890342f80.pdf>

²³ *Junglee Games India Pvt. Ltd. v. State of Tamil Nadu*, WP No. 18022/2020.

²⁴ *All India Gaming Federation v. State of Karnataka*, WP 18703/2021.

²⁵ INDIA CONST. art. 246, sched. VII, list II, entry 34.

the absence of enabling legislation in Parliament, the definitions to be used by the central executive may be subject to challenge on constitutional grounds. Ambiguity & Regulatory Uncertainty: The Rules use terms such as “wagering,” “stake,” “permissible,” and “self-regulatory certification” that are not defined exhaustively or tested objectively. This invites divergent interpretations by enforcement agencies and courts. As such, operators are aware of thresholds for compliance and what risks sanction or takedown and audit obligations.

The Rules encourage self-regulation by industry via SROs that provide a certification of what games are permissible.²⁶ While self-regulation is quick and flexible, it raises concerns about conflict of interest (the industry is certifying its own products). The absence of robust independent oversight or a body with a statutory capacity to make and enforce rules also raises concerns about accountability. Cross-border enforcement and technical limits: The rules presume an intermediary’s ability to police foreign participants, but many intermediaries operate from offshore. Intermediary liability, the ability for platforms to cooperate, and the effectiveness of technical take-downs differ. There are also privacy implications for intermediaries when personal identifying information (KYC) can be collected.²⁷

The uncertain obligations for compliance and liability could create disincentives for investment in intermediaries, leading to a more cautious approach to product design or offshoring or avoiding investment altogether. The IT Rules are an essential executive response that acknowledges the online aspect of games. Their importance is in creating the requirements for minimum due diligence and consumer protection. However, they cannot replace a statutory framework. To minimise litigation risks as well as constitutional clashes, Parliament should pass a dedicated piece of legislation that clarifies roles for central and state governments, establishes an independent regulator (with limited, defined powers), codifies objective tests for predominance of skill, and creates transparent oversight methodologies for SROs.

2. MeitY Consultations & IT Rules (2023)

In 2022-23, the Ministry of Electronics and Information Technology (MeitY) consulted with online gaming intermediaries and revised the IT Rules to acknowledge them, but this presents issues: unlegislated executive action the IT Rules are not a parliamentary statute, but instead a

²⁶ Ministry of Electronics & Info. Tech., Draft Amendments on Online Gaming Intermediaries, 2023.

²⁷ The Information Technology Act, No. 21 of 2000, sec 69A, INDIA CODE, 2000.

subordinate law to the IT Act, and therefore subject to judicial review,²⁸ tension with states on jurisdiction - the rules will have a risk of conflict with state legislations by establishing what sort of online games should be allowed, as the Constitution puts gambling on the State List.²⁹ Furthermore, self-regulation implementation gaps it depends on self-regulatory organisations (SROs) that must undergo independent auditing and oversight by the common good so as to prevent conflicts of interest.³⁰ The policy reports show that at the highest level people have realized that the prohibition model cannot be sustained and that the regulated framework with protective measures is the best way out. Nevertheless, the Law Commission Report received political opposition, the draft of the NITI Aayog was sector-specific and not mandatory, and the MeitY consultations are of an executive nature. They both point to the necessity of a unified parliamentary law that brings central and state functions into accordance, makes the distinction between skill and chance codified in law and puts consumer protection into law.

A NEW BEGINNING: PROTECTION AND REGULATION OF ONLINE GAMING ACT, 2025

The Promotion and Regulation of Online Gaming Act, 2025, is the first big initiative of India to establish a central authority to regulate online gaming, which is rapidly expanding in the country. The idea behind the Act was to provide some consistency to an uncoordinated and unequal legal environment and to control, police, and limit the gaming activities over the digital platforms where appropriate. It presents three major types of games such as e-sports, online social games and online money games hence differentiating between recreational and competitive skill-based games and those having financial implications. The mentioned aim of the Act will be to encourage safe and responsible gaming, suppress addiction, safeguard children, discourage money laundering, and provide an equitable competition. To enforce it, it develops a Central Online Gaming Authority that has the power to issue licenses, monitor compliance and block entry to unlicensed or non-compliant platforms, such as foreign operators. Policy-wise, the Act is indicative of the government desire to strike the right innovation-consumer welfare balance by establishing a national regulatory body to oversee the digital gaming industry. Its introduction is also a big milestone in the change of laws in India

²⁸ The Information Technology Act, No. 21 of 2000, INDIA CODE 2000.

²⁹ INDIA CONST. art. 246, sched. VII, list II, entry 34.

³⁰ Internet Freedom Foundation, Comments on MeitY's Draft IT Rules for Online Gaming, 2023, available at <https://internetfreedom.in/public-brief-it-amendment-rules-2023/>.

to include gambling rules in the colonial era (like the Public Gambling Act, 1867) to a more technology-focused legislative system that would consider the contemporary challenges of cross-border gambling, algorithmic fairness, and data privacy.

The Promotion and Regulation of Online Gaming Act, 2025 has significant constitutional, structural, and operational issues despite its progressive nature. The most significant of them is the question of legislative competence: the subject of Betting and gambling is covered by the State List (List II), Entry 34, which is in the first place, a state one. The measure taken by the Act to have a standardised, central regulatory regime stands a risk of being quashed as ultra vires powers of Parliament. Substantively, the blanket ban of the Act on online money games regardless of whether it is skill or chance that prevails as the case is against well-established Supreme Court precedents, including *R.M.D. Chamarbaugwala v. United States of America v. (1957) Union of India*, (1968) *State of A.P. v. K. Satyanarayana*, and (1969) *Dr. K.R. Lakshmanan v. State of Tamil Nadu (1996)* - which acknowledge skill-dominant games as constitutionally guaranteed occupation under Article 19(1) Clause (g).

The definitions of terms such as stake, wager, and consideration in the Act are ambiguous and can be interpreted in an arbitrary manner, and the provisions are broadly empower the executive branch of Articles 14 and 21 to bar platforms and freeze accounts and make warrantless searches, casting doubt on the Articles 14 and 21 with immense authority to do so. The economic impact of the prohibitionist strategy may force players and investors into off-shoring, which will decrease tax revenues and consumer safety. In addition, the Act does not offer a clear licensing or appellate system, which makes it unclear how one can comply with it and the discretion to be high. Practically, although the legislation aims to protect the interest of the population, its application of excessive centralisation, vagueness in its definitions, and neglect in regard to the law of precedent, are likely to turn what could be a rather reformative piece of law into what is progressively more of a restrictive and constitutionally unstable tool.

CONCLUSION

The history of the development of gaming regulation in India is the story of the conflict between the old colonial structures and the challenges of the fast-developing digital economy. Since the period of the Public Gambling Act, 1867, the Indian regulatory regime conceptualised gaming as a vice-related act that was accompanied by criminality, social desecration and moral decay. Even though the Act was revolutionary in establishing an exemption to games of mere skill, its

failure to be outrightly defined, to provide any regulation structure and to be still punitive saw to it that gaming continued to be stigmatised and unevenly regulated in a 100-year period. Constitutional division of gambling on the State List contributed to increased disunity, as the states took different approaches of complete prohibition of gambling to selective licensing of skill-based games. Consequently, both operators and participants were caught in an unfair enforcement system and there was a lack of regulatory predictability as protection usually relied more on judicial interpretation than statutory elegance.

The judicial intervention, starting with *Chamarbaugwala*, and subsequently in *Satyanarayana*, *Lakshmanan*, *Varun Gumber* and others, served to help find a wider constitutionalising of the skill exception, the ability to play skill-based gaming as economic activity under Article 19(1)(g). These cases occupied a void in the statutes but also revealed the excesses of litigation-based governance because state legislatures kept on passing blanket prohibitions with lack of nuances. The rise of online gaming further destabilised the federal balance: with the introduction of remote servers, intercountry operators, digital wallets, territorial state prohibitions became even more invalid. It is in this vacuum that the central government started to exert regulatory control via delegated legislation first with the IT Act, and then with the Intermediary Rules, which was the inversion of policing gambling houses to policing of digital infrastructure and intermediaries.

The most recent Promotion and Regulation of Online Gaming Act, 2025, is the greatest policy point shift, which aims to streamline the regulation of the field nationally, categorise the types of games, and establish a licensing and compliance framework. But even this reform testifies to the discord between the prohibitor instincts and the regulatory pragmatism which has not been resolved yet. The Act endangers to rekindle litigation and market instability by making new claims like the previous missteps by not maintaining the distinction between skill and chance as established in the constitution and by concentrating power in an area constitutionally endowed with states. It is no longer merely a matter of creating a system of regulation that can differentiate between skill and chance, but rather a regulatory system that can harmonise its objectives, be constitutionally acceptable, and prevent illegal betting yet allow legitimate innovation. The experience of India is that even the legal framework in that transition can be characterized, a transition that needs now to work through the dual issues of federal form and technological fact and economic prospect, in order to establish a consistent and sustainable regulation course of gaming in the twenty-first century.

SUGGESTIONS

1. Creating a Uniform National Licensing Framework

One essential reform in India's gaming landscape is for a national licensing model, with consistent and coherent standards forming at least one part of the regulatory puzzle. Different jurisdictions have different rules for similar "online" games (some outlaw "staking" games while others may expect local registration), with state authorities and courts also using the Public Gambling Act of 1867 as the basis for legality in many states. The trouble is that we don't have a cohesive legal system with clear direction for player, courts, or government agencies to act in presumption of legality. A national licensing scheme, administered by the National Gaming Regulator of Australia, would clarify the regulatory requirements while recognizing the federated system in Australia. The requirements for an online gaming licence must include the proper framework for online fantasy sports, esports, skill-based real money games, casual social games with microtransactions, and hybrid gaming - entertainment products with gaming components. Licensing requirements would also include robust KYC requirements, robust AML and counter-terror-financing systems, safe payment systems, and robust record maintenance. The framework should include that gaming operators would be required to host algorithmically fair systems and have mechanisms to disclose the workings of games, wagering probabilities, player matches, and most importantly any aspect of machine learning, if it is impacting gameplay. All of these conditions should be further reinforced and consolidated in an annual technology audit.

The licensing framework must also contain rigorous consumer protection requirements, including limits on both time and money spent, options for self-exclusion, grievance-redressal mechanisms, and understandable terms of service. A layered licensing framework can be developed (basic, intermediate, and advanced) based on business size and financial investment. Fees for licensing must be reasonable and commensurate with potential compliance costs, incentivizing compliance and disincentivizing unlicensed operation. In addition to compliance measures, penalties for violating unlawful gambling or gaming laws must be a flexible set with options of license suspension, monetary fines, blacklisting, and in serious cases of fraud or manipulation, criminal liability. Uniform licensing will benefit not only to harmonize India's governance framework, but also make the gaming industry easier to predict, more stable, and more attractive for investment. Uniform licensing will establish a single point of accountability, mitigate regulatory friction, and reassure legitimate operators that they can operate with a minimal threat of arbitrary closure or fluctuations in regulatory guidance by the states. Uniform

licensing will establish a pathway between, on one side, states' ability to self-determine and on the other, federal rules of engagement; both of which are consistent with the constitutional doctrine and the new governance realities of the digital age.

2. Clarifying Statutory Definitions

A foundational policy recommendation favors a statutory clarification of key gaming terms like "stake," "wager," "bet," "consideration," "entry fee," "prize pool," "Random Number Generator," "predominance of skill," and "game of chance." A significant portion of confusion and criminalisation of online gaming arises from the lack of precise terms in state gambling acts and the 2025 Online Gaming Act. Courts have repeatedly adjudicated that entry fees for skill contests are not wagers; nevertheless, state governments equate participation fees with gambling. The deliberately vague definitions allow police to file FIRs even when courts have determined certain games to be skill-based games.

It is therefore critical for the law to include the predominance test in explicit statutory terms that would make it impossible for authorities to categorise games as gambling when courts recognise them as skill-oriented. The statute must further define "stake" separately from common reference to "entry fee." A "stake" should have a definition that indicates money is risked only on an uncertain outcome without any element of participant control. Whereas, an "entry fee" should have a definition that indicates the administrative fee or participation fee characterises a competition for the opportunity to compete in a skill-based contest. Prize pools should also be defined as amounts that are redistributed to individuals, rather than stakes. Definitions must also incorporate hybrid digital monetisation models; loot boxes, in-app purchases, algorithmic rewards and microtransactions that blur the lines between skill and chance.

Good statutory language can define when these features equate to gambling-adjacent activities, requiring regulation but never to be prohibited. "Games of skill" should be defined based on determinable parameters, such as player agency through control, player stratagem, memory, manual dexterity and analytical ability. "Games of chance" should only mean activities driven largely through randomising devices; such as dice, random number generators (RNGs), automated shufflers or akin probability engines. By clarifying these definitions, litigation will be vastly reduced, wrongful prosecution will be prevented, tax policy will be guided and a predictable environment which regulates activity will be established. Precise statutory language

will align legislative intention, judicial precedent and regulatory enforcement, while a lack of clear definitions will continue to cause India to experience ongoing constitutional disputes, policy uncertainties, and wrongful criminalisation of legitimate digital enterprises. Thus, clear definitions must be the future of reincarnated gaming-law reform in India.

The constitutional promise of liberty in India, which is provided in Article 19(1)(g), requires the gaming to be viewed not as a moral crime but as an economic endeavour, which is regulated and liable. With the development of digital ecosystems, legislations should change to regulatory pragmatism instead of moral paternalism. A welfare-oriented, harmonised system would not only be appealing to the responsible investment performers, but also safeguard the consumers and ensure public order. This kind of transformation needs court restraint, political bravery and governmental ability. When realized, it would put India on the same level with the global best practices in the gaming jurisprudence without losing its federal and cultural identity.

