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REGULATING ONLINE GAMING AND E-SPORTS IN INDIA: LEGAL FRAMEWORKS, CONSUMER PROTECTION AND INNOVATION

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I. ABSTRACT

Online gaming and e-sports have emerged as one of the fastest-growing sectors of India's digital economy, creating significant legal and regulatory challenges relating to gambling regulation, consumer protection, data privacy, taxation, intermediary liability, and the constitutional distribution of legislative powers between the Union and the States. The enactment of the Promotion and Regulation of Online Gaming Act, 2025 (Act No. 32 of 2025) and the Promotion and Regulation of Online Gaming Rules, 2026 has fundamentally transformed the regulatory framework by prohibiting online money games irrespective of whether they involve skill or chance while establishing a statutory regime for the governance and promotion of e-sports and online social games. This study adopts a doctrinal and comparative legal research methodology through an examination of the Constitution of India, the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, the Consumer Protection Act, 2019, the Promotion and Regulation of Online Gaming Act, 2025, the Promotion and Regulation of Online Gaming Rules, 2026, and leading judicial decisions concerning online gaming regulation and constitutional federalism. A comparative assessment of the regulatory frameworks of the United Kingdom and the United States is undertaken to identify international best practices relating to licensing, consumer protection, responsible gaming, regulatory oversight, and institutional governance. The study finds that India's post-2026 framework represents a decisive shift from the traditional skill-versus-chance doctrine towards a statutory classification-based model that prioritises consumer welfare, public health, and regulatory certainty. It recommends strengthening cooperative federalism, enhancing regulatory coordination, improving transparency and algorithmic accountability of gaming platforms, reinforcing personal data protection, rationalising taxation, and developing a

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dedicated governance framework for e-sports to ensure a constitutionally sustainable, technologically responsive, and consumer-centric regulatory regime.

II. KEYWORDS

Online gaming and e-sports, regulatory challenges, Information Technology Act 2000, Consumer Protection, Promotion and Regulation of Online Gaming Rules, 2026.

III. INTRODUCTION

The last decade has witnessed an unprecedented transformation in the Indian online gaming and e-sports landscape. According to a joint report by KPMG and the Internet and Mobile Association of India (IAMAI), the Indian online gaming sector was valued at ₹16,428 crore in 2023 and is projected to reach ₹33,243 crore by 2028. The number of active gamers in India crossed 442 million in 2024, making India one of the world's largest gaming markets, with nearly 90 per cent of users playing on mobile platforms. The widespread availability of affordable smartphones, low-cost internet services, and government initiatives such as Digital India and Startup India have accelerated the transition from casual mobile gaming to organised e-sports, online social games, and digital gaming platforms.

The rapid growth of the sector has, however, generated complex legal and regulatory challenges relating to consumer protection, responsible gaming, data privacy, taxation, cyber governance, and constitutional allocation of legislative powers. Historically, Indian gaming law has distinguished between games of skill and games of chance, a distinction originating from the Public Gambling Act 1867 and corresponding State gambling legislation. Under this traditional framework, games predominantly involving skill enjoyed legal protection, whereas games of chance were generally prohibited. While this distinction served as the cornerstone of Indian gaming jurisprudence for several decades, the emergence of algorithm-driven digital gaming, real-money gaming platforms, and cross-border online services exposed significant limitations in applying nineteenth-century gambling laws to the contemporary digital economy.

The proliferation of online gaming platforms offering fantasy sports, card games, casual games, and competitive e-sports further complicated the regulatory landscape. Earlier judicial decisions relied upon the predominant skill-versus-chance test in determining the legality of online gaming activities. However, the legal position has undergone a fundamental transformation following the enactment of the Promotion and Regulation of Online Gaming Act, 2025, the Promotion and Regulation of Online Gaming Rules, 2026, and the Supreme Court's decision in *State of Tamil Nadu v. Junglee Games India Pvt. Ltd.* (2026). These developments significantly curtail the earlier constitutional protection afforded to skill-based online gaming, recognise broader State legislative competence over betting-related activities under Entry 34 of List II, and reinforce a prohibition-based regulatory model centred on consumer protection, public welfare, and regulatory certainty.

The enactment of the Promotion and Regulation of Online Gaming Act, 2025² together with the Promotion and Regulation of Online Gaming Rules, 2026³, marks a significant shift in India's regulatory philosophy by prohibiting online money games while establishing a statutory framework for the regulation and promotion of e-sports and online social games. This transition reflects an increasing emphasis on consumer protection, public welfare, and responsible digital governance over the earlier reliance on the judicial distinction between games of skill and games of chance.

The regulatory framework has also expanded beyond gaming-specific legislation. The Ministry of Electronics and Information Technology (MeitY) continues to function as the nodal ministry for online gaming regulation, while the Information Technology Act 2000, the Digital Personal Data Protection Act 2023, and the Consumer Protection Act 2019 collectively impose obligations relating to intermediary responsibility, protection of personal data, online consumer rights, and platform accountability. These developments demonstrate the growing convergence of technology law,

² Ministry of Electronics and Information Technology. (2025). The Promotion and Regulation of Online Gaming Act, 2025 (Act No. 32 of 2025). Government of India, <https://www.meity.gov.in/static/uploads/2025/10/8a7f103cefc68ed8aaa2ebc9a2ed7c13.pdf>

³ Ministry of Electronics and Information Technology. (2026, April 22). The Promotion and Regulation of Online Gaming Rules, 2026 (G.S.R. 303(E)). The Gazette of India., <https://www.meity.gov.in/static/uploads/2026/04/7e0b02d37fd07f81fa48578a9996aa85.pdf>

consumer protection, and digital regulation within India's online gaming ecosystem. Despite the introduction of a central statutory framework, constitutional complexities continue to persist. Betting and gambling remain subjects under Entry 34 of List II of the Seventh Schedule to the Constitution, whereas information technology, digital communications, and related matters fall within the legislative competence of the Union. Consequently, the coexistence of central legislation and State regulatory powers continues to raise important questions regarding legislative competence, cooperative federalism, regulatory harmonisation, and the constitutional validity of restrictions imposed on online gaming activities.

The legal position becomes further nuanced in the context of e-sports, which have emerged as a distinct category of competitive digital activity. Recognised by the Ministry of Youth Affairs and Sports as part of the multi-sport ecosystem in 2022, e-sports differ fundamentally from wagering-based activities owing to their competitive and skill-oriented nature. The statutory recognition of e-sports under the Promotion and Regulation of Online Gaming Act, 2025 reflects the legislature's intention to distinguish organised competitive gaming from prohibited online money games while promoting the growth of India's digital sports industry through an appropriate regulatory framework.

Against this backdrop, the present study critically examines India's contemporary legal framework governing online gaming and e-sports. It analyses the constitutional, statutory, and regulatory developments brought about by the Promotion and Regulation of Online Gaming Act, 2025, the Promotion and Regulation of Online Gaming Rules, 2026, the Information Technology Act 2000, the Digital Personal Data Protection Act 2023, and other relevant legislation. The paper further evaluates issues relating to consumer protection, data privacy, constitutional federalism, and regulatory governance through an analysis of judicial decisions and policy developments. Finally, it undertakes a comparative assessment of the regulatory approaches adopted in the United Kingdom and the United States to identify international best practices relating to licensing, consumer protection, regulatory

oversight, and institutional governance, and proposes reforms for strengthening India's evolving regulatory framework for online gaming and e-sports.

A. Research Problem

The rapid growth of online gaming and e-sports has exposed significant limitations in India's traditional gambling laws, particularly the continued reliance on the judicial distinction between games of skill and games of chance in regulating digital gaming activities. The emergence of online money games, e-sports, cross-border gaming platforms, artificial intelligence-driven gaming systems, and data-intensive digital services has created complex constitutional, regulatory, and consumer protection issues that are not adequately addressed by conventional gambling legislation.

Although the Promotion and Regulation of Online Gaming Act, 2025 and the Promotion and Regulation of Online Gaming Rules, 2026 seek to establish a comprehensive regulatory framework by prohibiting online money games while promoting regulated e-sports and online social gaming, important questions remain regarding their constitutional sustainability, effectiveness in balancing Union and State legislative competence, consumer protection, technological innovation, and the long-term development of India's digital gaming ecosystem. This study therefore examines whether the contemporary legal framework provides a coherent, effective, and constitutionally sustainable model for regulating online gaming and e-sports in India.

B. Research Objectives

The present study seeks to critically examine the contemporary legal and regulatory framework governing online gaming and e-sports in India following the enactment of the Promotion and Regulation of Online Gaming Act, 2025 and the Promotion and Regulation of Online Gaming Rules, 2026. Specifically, the study pursues the following objectives:

1. To critically evaluate India's statutory framework governing online gaming and e-sports, with particular reference to the Promotion and Regulation of Online Gaming Act, 2025, the Promotion and Regulation of Online Gaming

Rules, 2026, the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, and the Consumer Protection Act, 2019.

2. To analyse the constitutional and judicial developments governing online gaming, including the evolution of the skill-versus-chance doctrine, legislative competence, and the changing relationship between Union and State regulatory powers.
3. To assess the effectiveness of the existing regulatory framework in promoting consumer protection, responsible gaming, data protection, technological innovation, and sustainable growth of the digital gaming ecosystem.
4. To compare India's regulatory approach with those adopted in the United Kingdom and the United States in order to identify international best practices relating to licensing, consumer protection, regulatory oversight, and institutional governance.
5. To propose legal and policy reforms for developing a coherent, constitutionally sustainable, and technologically responsive regulatory framework for online gaming and e-sports in India.

C. Research Questions

1. Does the Promotion and Regulation of Online Gaming Act, 2025 establish a constitutionally valid and coherent regulatory framework for online gaming and e-sports within the federal distribution of legislative powers under the Seventh Schedule to the Constitution of India?
2. How have recent legislative reforms and judicial developments reshaped the traditional skill-versus-chance doctrine and the regulation of online money games in India?
3. To what extent does the existing statutory framework effectively balance consumer protection, responsible gaming, technological innovation, data protection, and the sustainable development of India's e-sports ecosystem?
4. What regulatory lessons can India draw from the legal frameworks of the United Kingdom and the United States to strengthen consumer protection, regulatory oversight, and governance of online gaming and e-sports?

D. Research Methodology

This study adopts a doctrinal and comparative legal research methodology. The doctrinal component is based on the analysis of primary legal sources, including the Constitution of India, the Promotion and Regulation of Online Gaming Act, 2025, the Promotion and Regulation of Online Gaming Rules, 2026, the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, the Consumer Protection Act, 2019, and relevant judicial decisions governing online gaming and e-sports. Secondary sources, comprising peer-reviewed journal articles, academic books, Law Commission reports, government publications, policy papers, and industry reports, are utilised to support the legal analysis.

A comparative assessment of the regulatory frameworks of the United Kingdom and the United States is undertaken because these jurisdictions represent two influential yet contrasting models of online gaming regulation—a centralised licensing framework and a federal, state-based regulatory approach, respectively. The comparison is intended to identify best practices relevant to the Indian context. The study is limited by the rapidly evolving nature of digital gaming regulation and the possibility of future legislative and judicial developments that may alter the existing legal position.

E. Research Hypothesis

This study hypothesises that the Promotion and Regulation of Online Gaming Act, 2025 and the Promotion and Regulation of Online Gaming Rules, 2026 establish a more coherent and constitutionally sustainable regulatory framework than the earlier skill-versus-chance approach by introducing a statutory classification-based model that strengthens consumer protection, enhances regulatory certainty, and promotes the structured development of e-sports and online social gaming.

However, the effectiveness of this framework is likely to depend upon coordinated implementation by the Union and the States, effective regulation of offshore digital platforms, robust technological oversight, and continuous adaptation to emerging challenges relating to artificial intelligence, data protection, and digital governance.

F. Literature Review

1. The Law Commission of India, in its 276th Report, remains one of the most influential studies on gambling regulation in India. The Commission observed that complete prohibition had not effectively curbed illegal gambling and suggested that a regulated framework with licensing, financial transparency, consumer safeguards, and technological oversight would provide a more practical solution. Although the Report did not specifically address the later statutory developments concerning online gaming, it laid the doctrinal foundation for subsequent policy discussions on balancing economic interests with public welfare.⁴
2. Similarly, Justice Yatindra Singh explains that the Information Technology Act, 2000 was enacted primarily to regulate electronic commerce and digital communications rather than online gaming. Nevertheless, the intermediary liability regime under section 79 has become increasingly significant in governing online gaming platforms through due diligence obligations, safe harbour protection, and platform accountability. His work demonstrates that the evolution of gaming regulation has been closely linked to developments in cyber law and intermediary regulation.⁵
3. Following the amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, academic attention has shifted towards digital governance and responsible gaming. Swarndeeep Singh and Yatan Pal Singh Balhara argue that the introduction of a dedicated regulatory framework for online gaming intermediaries reflects a significant move towards structured regulation, particularly through grievance redressal mechanisms, user verification, and consumer protection obligations. However, they caution that regulatory success depends upon institutional capacity, effective enforcement, and continued policy

⁴ Law Commission of India, *Legal Framework: Gambling and Sports Betting Including in Cricket in India* (Report No 276, July 2018).

⁵ Bansal, Prof. Ashwani Kumar (2010) "Book Review: *Cyber Laws*, Justice Yatindra Singh (Universal Law Publishing Co., 2010)," *Indian Journal of Law and Technology*: Vol. 6: Iss. 1, Article 6.

refinement to address addiction, behavioural harms, and technological innovation.⁶

4. The enactment of the Promotion and Regulation of Online Gaming Act, 2025 has generated a new body of legal scholarship examining its constitutional, economic, and regulatory implications. Neeraj Kumar and Maya K (2026) describe the Act as a fundamental shift in India's digital policy by replacing the traditional skill-versus-chance approach with a statutory prohibition of online money games while simultaneously promoting e-sports and online social gaming. They argue that although the legislation seeks to protect consumers from addiction and financial harm, it also presents significant challenges relating to employment, investment, and the future growth of India's digital gaming industry.⁷
5. Similarly, Prateek Bansal, Mayank Goyal and Shelja Shah (2025) observe that the 2025 Act introduces regulatory certainty by creating a unified national framework applicable even to offshore operators targeting Indian users. They note that the legislation significantly expands regulatory oversight through the establishment of an Online Gaming Authority and introduces comprehensive compliance obligations for intermediaries, advertisers, payment processors and gaming platforms. However, they caution that implementation challenges remain, particularly regarding constitutional overlap with State legislative competence under Entry 34 of List II.⁸
6. Vikash Kukreti and Gaurav Tiwari (2025) critically analyse the constitutional implications of the Act and argue that although Parliament has relied upon Entries 31 and 97 of List I to justify the legislation, the

⁶ Swarndeeep Singh and Yatan Pal Singh Balhara, 'Rules for Online Gaming Regulation in India: The Endgame or We Need to Level Up?' (2024) 46(6) Indian Journal of Psychological Medicine 589–592.

⁷ Neeraj Kumar and Maya K, "From Boom to Ban: The Implications of India's Online Gaming Act, 2025", (2026) Artha Journal of Social Sciences.

⁸ Prateek Bansal, Mayank Goyal and Shelja Shah, India's Online Gaming Bill, 2025: From Doctrinal Ambiguity to Regulatory Finality (White & Brief Advocates and Solicitors, 1 September 2025) <https://www.mondaq.com/india/gaming/1672280/indias-online-gaming-bill-2025-from-doctrinal-ambiguity-to-regulatory-finality>.

prohibition of online money games is likely to generate litigation concerning federalism, proportionality and the scope of Article 19(1)(g). They further suggest that judicial scrutiny will determine whether the new statutory classification model successfully replaces decades of jurisprudence based upon the skill-versus-chance distinction.⁹

7. Recent academic commentary has also questioned whether prohibition alone can effectively regulate India's rapidly expanding gaming ecosystem. Subhrajit Chanda and Anurag Satishan Menon (2025) argue that while the Act strengthens consumer protection and seeks to address addiction and financial exploitation, unresolved issues remain concerning taxation, cross-border enforcement, platform compliance, and the future competitiveness of India's digital gaming industry. They advocate a balanced regulatory model combining effective enforcement with technological innovation and institutional flexibility.¹⁰
8. A further critical perspective is provided by Ishaan Jai Sikka (2025), which argues that the Promotion and Regulation of Online Gaming Act, 2025 represents a transition from fragmented State regulation to centralised prohibition of online money games. The article identifies constitutional vulnerability arising from the interaction between Union legislative powers over digital infrastructure and State competence over betting and gambling, while also questioning whether a prohibition-based approach will adequately address technological developments such as artificial intelligence, algorithmic gaming systems, and offshore platforms.¹¹
9. Comparative scholarship further enriches the regulatory discourse. Simon Planzer demonstrates that the United Kingdom's licensing-based model

⁹ Vikash Kukreti and Gaurav Tiwari, *The Promotion and Regulation of Online Gaming Act, 2025: Dawn of a New Era – Critical Analysis* (Bar & Bench, 3 September 2025) <https://www.barandbench.com/view-point/the-promotion-and-regulation-of-online-gaming-act-2025-dawn-of-a-new-era-critical-analysis>

¹⁰ Subhrajit Chanda and Anurag Satishan Menon, *Ban or Balance? What India's Online Gaming Bill 2025 Means for Law, Tax and Players* (Jindal Global University PURE Repository, 21 December 2025) <https://pure.jgu.edu.in/id/eprint/105>

¹¹ Ishaan Jai Sikka, *India's Promotion and Regulation of Online Gaming Act, 2025: A Legal Overview* (2026) 4(1) *International Journal of Law, Social Sciences and Sustainability Studies* 100- 110.

places significant emphasis on institutional regulation, responsible gambling measures, affordability checks, and consumer protection under the supervision of the UK Gambling Commission.¹²

10. Likewise, I. Nelson Rose and Martin D. Owens Jr. explain that the United States adopts a decentralised regulatory structure in which federal legislation primarily regulates financial transactions while individual States determine licensing and substantive gambling policy.¹³

IV. HISTORICAL CONTEXT: FROM GAMBLING TO DIGITAL GAMING

The Indian legal approach to gaming is rooted in the Public Gambling Act, 1867, enacted to suppress physical gambling houses during the colonial era. The statute criminalises the operation of “common gaming houses” and the facilitation of betting activities while exempting games in which success depends predominantly on skill. This historical distinction between “games of skill” and “games of chance” has remained the foundational principle of Indian gaming jurisprudence, despite being developed in a pre-digital context that did not anticipate algorithm-driven or internet-based gaming platforms.

With the rapid expansion of digital gaming in the 2010s, State governments began extending traditional gambling laws to online environments. However, the absence of uniform statutory definitions for “online gaming,” “e-sports,” and “real-money gaming” led to fragmented regulation and constitutional disputes across jurisdictions. The Union government initially exercised indirect regulatory control through the Information Technology Act, 2000, particularly through intermediary liability provisions, but did not expressly regulate gaming activities as a standalone sector.

The emergence of real-money gaming platforms and online skill-based gaming ecosystems further blurred the legal distinction between gambling and legitimate digital entertainment. This regulatory ambiguity culminated in legislative

¹² Simon Planzer, *Regulating Gambling in Europe: National Approaches and EU Law* (Springer 2015).

¹³ I Nelson Rose and Martin D Owens Jr, *Internet Gaming Law* (Mary Ann Liebert 2009).

intervention at the central level through the Promotion and Regulation of Online Gaming Act, 2025 (Act No. 32 of 2025), followed by the Promotion and Regulation of Online Gaming Rules, 2026. These instruments mark a structural shift in Indian gaming law by prohibiting online money games irrespective of skill classification while simultaneously establishing a regulated framework for e-sports and online social games. This shift effectively reduces the historical reliance on the skill-chance doctrine as the primary determinant of legality, replacing it with a statutory classification-based regulatory model focused on consumer protection and public welfare.

A. The Information Technology Act, 2000 and Intermediary Liability

The Information Technology Act, 2000 (IT Act) constitutes the primary legal framework governing digital intermediaries in India. Section 79 provides a safe harbour mechanism for intermediaries, including online gaming platforms, shielding them from liability for third-party content subject to compliance with due diligence requirements.¹⁴

The regulatory framework was significantly strengthened through the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, as amended in 2023, which introduced the category of “online gaming intermediaries.” These rules impose obligations relating to registration, grievance redressal mechanisms, and due diligence standards for platforms operating in the gaming ecosystem.

In particular, the framework mandates that intermediaries must not host or facilitate any online game involving wagering or betting on outcomes. Additionally, platforms are required to implement safeguards such as random number generation certification, anti-bot mechanisms, and user protection disclosures. These measures represent a shift towards structured regulation rather than pure prohibition. Despite

¹⁴ Sec 79 of Information Technology Act, 2000,
https://www.indiacode.nic.in/bitstream/123456789/13116/1/it_act_2000_updated.pdf

these developments, enforcement remains uneven across States, particularly due to divergent legislative approaches toward games such as rummy and poker.

Earlier High Court decisions, including *All India Gaming Federation v. State of Karnataka* and *Junglee Games India Pvt. Ltd. v. State of Tamil Nadu*, recognised constitutional protection for certain skill-based online games and imposed limitations on blanket prohibitions. However, the subsequent decision of the Supreme Court in *State of Tamil Nadu v. Junglee Games India Pvt. Ltd. (2026)* has substantially redefined the governing legal principles by affirming broader State competence to regulate betting-related activities under Entry 34 of List II and by limiting the continuing precedential value of the earlier High Court decisions. Consequently, those judgments must now be read in their historical context rather than as statements of the current legal position.¹⁵

B. The Promotion and Regulation of Online Gaming Act, 2025

The Promotion and Regulation of Online Gaming Act, 2025 (Act No. 32 of 2025) represents the first comprehensive central legislation governing India's online gaming sector. Enacted to address regulatory fragmentation, the Act establishes a unified statutory framework under which online gaming is classified into three categories: online money games, e-sports, and online social games.

A defining feature of the Act is its categorical prohibition of online money games, irrespective of whether they are based on skill, chance, or a combination of both. This marks a decisive departure from the traditional judicial reliance on the skill-chance distinction and reflects a policy shift towards consumer protection and harm prevention. The Act simultaneously promotes e-sports and online social gaming through a structured regulatory framework administered by a Central Online Gaming Authority. Key regulatory components include:

- 1. Classification framework:** Mandatory categorisation of all digital games into regulated classes.

¹⁵ Civil Appeal Nos. 6124-6131 of 2023

2. **Consumer safeguards:** Age verification, spending limits, and mandatory risk disclosures.
3. **Data compliance:** Alignment with the Digital Personal Data Protection Act, 2023, particularly in relation to minors and behavioural data processing.
4. **Dispute resolution:** Establishment of specialised adjudicatory mechanisms for gaming-related disputes.



The constitutional validity of the Act is grounded in the Union's powers under Entries 31 and 97 of List I, treating online gaming as a component of information technology regulation. However, this approach has generated constitutional debate due to the apparent overlap with State competence under Entry 34 of List II (betting and gambling), raising questions of federal balance and legislative repugnancy. The Promotion and Regulation of Online Gaming Rules, 2026 operationalise the Act by

prescribing compliance standards, enforcement mechanisms, and technical obligations for gaming intermediaries.

C. Judicial Interpretations

Indian courts have historically developed a clear doctrinal distinction between games of skill and games of chance. In *State of Andhra Pradesh v K. Satyanarayana*¹⁶, the Supreme Court recognised rummy as a game predominantly involving skill.

This approach was reinforced in *K.R. Lakshmanan v State of Tamil Nadu*, where horse racing was held to involve substantial skill and therefore fell within the ambit of protection under Article 19(1)(g), subject to reasonable restrictions¹⁷. These principles were later extended to digital gaming contexts by High Courts.

In *Varun Gumber v Union Territory of Chandigarh*, fantasy sports were treated as games of skill. However, the Supreme Court's dismissal of subsequent appeals without a speaking order limits the precedential weight of this view, leaving its doctrinal status persuasive rather than conclusively settled at the national level.¹⁸

V. COMPARATIVE PERSPECTIVES

A. United Kingdom

The present regulatory framework in the United Kingdom is primarily governed by the Gambling Act 2005, which continues to serve as the principal legislation regulating both land-based and online gambling activities. This Act establishes a comprehensive licensing system under which all operators must be authorised by the UK Gambling Commission before offering services in the market. The current framework is therefore characterised by a fully centralised statutory structure that integrates licensing, enforcement, and compliance within a single national regulator.

In its present application, the Act operates alongside recent statutory and policy reforms that have expanded its regulatory intensity, particularly in relation to online

¹⁶ AIR 1968 SC 825

¹⁷ (1996) 2 SCC 226

¹⁸ *Varun Gumber v. Union Territory of Chandigarh*, 2017 SCC OnLine P&H 5372 (Punjab & Haryana High Court).

gambling environments. The contemporary focus is on strengthening consumer protection through mandatory identity verification, affordability checks, advertising restrictions, and enhanced self-exclusion systems such as GAMSTOP. The current legal position reflects an evolved interpretation of the 2005 Act, where harm prevention and digital accountability are now central regulatory priorities. Compared to other jurisdictions, the UK's present act-based system demonstrates high legal coherence, with a stable statutory foundation and incremental reform approach that allows continuous adaptation without replacing the core legislative structure.

E-sports, defined as organised competitive digital gaming, were formally recognised in India in 2022 as part of the multi-sport ecosystem under the Ministry of Youth Affairs and Sports. This recognition was later reinforced by statutory classification under the Promotion and Regulation of Online Gaming Act, 2025, which distinguishes e-sports from prohibited online money games. The Act envisages a structured governance framework for e-sports through a designated regulatory authority responsible for tournament licensing, player registration, contractual regulation, and integrity monitoring.

India's approach is broadly consistent with international regulatory models. In United Kingdom and the United States, the Gambling Control Act 2022 (No. 15 of 2022) establishes a consolidated statutory framework governing gambling activity, while distinguishing regulated gambling from competitive digital gaming through a risk-based regulatory approach administered by the Gambling Regulatory Authority of Singapore, constituted under the Gambling Regulatory Authority of Singapore Act 2022 (No. 14 of 2022). Although Singapore's framework is primarily directed towards gambling regulation rather than e-sports governance, it offers useful comparative lessons in relation to regulatory oversight, licensing, consumer protection, and technological enforcement, particularly in relation to labour protections, tax classification, intellectual property rights, athlete mobility, and sponsorship regulation. These gaps necessitate targeted regulatory intervention to ensure the sustainable development of the sector.

B. United States

The present legal framework in the United States is primarily anchored in the Unlawful Internet Gambling Enforcement Act 2006, which continues to regulate the financial and transactional aspects of online gambling at the federal level. However, this Act does not establish a comprehensive licensing regime for gambling activity itself. Instead, it operates in conjunction with state-level legislation, which has become increasingly significant in shaping the actual regulatory environment following major judicial and legislative developments in recent years, particularly the post-2018 expansion of state-authorized online sports betting and gaming.

In its current form, the 2006 Act functions primarily as a restrictive financial compliance mechanism rather than a full regulatory framework. It prohibits financial institutions from knowingly processing transactions related to unlawful internet gambling, while leaving the definition and legality of gambling activity largely to individual states. As a result, present regulation is highly fragmented, with states such as New Jersey, Michigan, and Pennsylvania operating detailed licensing regimes, while others maintain prohibitions. The current legal reality is therefore defined less by a single controlling statute and more by the interaction between a federal restriction-based framework and diverse state regulatory acts, leading to uneven enforcement and varying consumer protection standards across the country.

C. Comparative Reflections for India

India's present regulatory framework is shaped by a dual structure combining state-level gambling laws under Entry 34 of the State List with increasing central regulation of digital gaming platforms. Unlike the United Kingdom, where the present legal system is consolidated under a single comprehensive statute, and unlike the United States, where the present federal act coexists with strong state autonomy, India does not yet have a unified central gambling statute governing online gaming comprehensively. At present, Indian regulation is characterised by partial central intervention in online money games and intermediary platforms, while traditional gambling remains primarily within state jurisdiction.

This creates a regulatory environment in which different legal instruments operate simultaneously without full statutory harmonisation. The absence of a single

overarching present act equivalent to the UK's Gambling Act or a stable dual-layer federal structure as in the US results in legal ambiguity, particularly in distinguishing between games of skill and chance in the digital environment.

In comparative terms, the UK present system is statute-driven and institutionally unified, the US present system is federal restriction-based with strong state-level implementation, while India's present system is fragmented across multiple legal sources without a single consolidating statute. This places India in a transitional regulatory position where ongoing legislative and policy developments are still shaping the contours of a coherent digital gaming and gambling law framework.

The expansion of online gaming has intensified concerns relating to consumer protection, behavioural addiction, data privacy, and algorithmic manipulation. The Consumer Protection Act, 2019 empowers the Central Consumer Protection Authority (CCPA) to regulate misleading advertisements and unfair trade practices, including misrepresentation of gaming outcomes and financial risks. The Digital Personal Data Protection Act, 2023 further imposes obligations on gaming platforms as data fiduciaries, particularly in relation to minors, consent frameworks, and behavioural profiling practices. These obligations are reinforced by the Promotion and Regulation of Online Gaming Act, 2025, which mandates age-gating, spending controls, and self-exclusion mechanisms.

D. Post-2026 Constitutional Position

The legal landscape governing online gaming has undergone a significant transformation following the Supreme Court's decision in *State of Tamil Nadu v. Junglee Games India Pvt. Ltd.* (2026). The Court clarified the constitutional scope of Entry 34 of List II, recognised wider State legislative competence over betting-related activities, and substantially limited the precedential value of earlier High Court decisions that had extended constitutional protection to skill-based online gaming under Article 19(1)(g). Read together with the Promotion and Regulation of Online Gaming Act, 2025 and the Promotion and Regulation of Online Gaming Rules, 2026, these developments establish that India's contemporary regulatory model is founded

on statutory classification and consumer protection rather than the traditional judicial skill-versus-chance doctrine.

VI. TAXATION AND ECONOMIC REGULATION

The taxation framework governing online gaming in India has undergone significant restructuring in the post-2026 regulatory regime. The Promotion and Regulation of Online Gaming Act, 2025 operates alongside the Goods and Services Tax (Amendment) regime of 2023, creating a dual structure of sectoral prohibition and fiscal regulation. Under the GST framework, a uniform tax of 28 percent continues to apply to transactions involving online gaming platforms, particularly where real-money stakes or monetised participation are involved. This approach has been justified on the basis of revenue protection and the classification of such transactions as actionable claims. However, critics argue that such a uniform taxation model fails to distinguish between prohibited online money games and regulated e-sports or social gaming activities under the 2025 Act.

In contrast, comparative jurisdictions adopt more differentiated taxation models. The United Kingdom applies a 15 percent Remote Gaming Duty based on gross gaming yield rather than player deposits, while the United States permits state-level taxation with significant variation across jurisdictions. Singapore's regulatory framework under the Gambling Control Act 2022 adopts a consolidated, risk-based approach to gambling regulation while distinguishing regulated gambling activities from non-wagering digital entertainment. This framework provides useful guidance on licensing, regulatory supervision, and consumer protection, although it is not a dedicated statute governing e-sports or online gaming as separate legal categories.

India's post-2026 framework, however, reflects a hybrid structure: while online money games are prohibited under Section 5 of the 2025 Act¹⁹, taxable activity persists in relation to permissible e-sports and online social gaming services. This creates interpretative challenges regarding tax classification, particularly for hybrid platforms

¹⁹ Ministry of Electronics and Information Technology. (2025). The Promotion and Regulation of Online Gaming Act, 2025 (Act No. 32 of 2025). Government of India, <https://www.meity.gov.in/static/uploads/2025/10/8a7f103cefc68ed8aaa2ebc9a2ed7c13.pdf>

and cross-border operators. The current model raises concerns of regulatory arbitrage, offshore migration of platforms, and reduced competitiveness of India's digital gaming sector. At the same time, it reflects a deliberate policy choice prioritising public welfare and financial harm prevention over market expansion.

VII. CHALLENGES AND FUTURE DIRECTIONS

Despite the establishment of a comprehensive statutory framework under the Promotion and Regulation of Online Gaming Act, 2025 and the Promotion and Regulation of Online Gaming Rules, 2026, several structural and regulatory challenges persist in the Indian online gaming ecosystem.

- 1. Federal-State Constitutional Tensions:** The coexistence of Union legislation regulating online gaming and State legislative competence over betting and gambling under Entry 34 of List II continues to generate constitutional friction. Although the 2025 Act seeks to resolve this through classification-based regulation, the potential for jurisdictional overlap and federal disputes remains significant.
- 2. Enforcement against Offshore Platforms:** A major challenge lies in regulating foreign-based gaming operators who target Indian users through digital platforms, VPNs, and cryptocurrency-based transactions. Effective enforcement mechanisms require international cooperation and stronger digital surveillance frameworks.
- 3. Regulatory Oversight of Algorithmic Systems:** The increasing use of artificial intelligence, predictive analytics, and algorithmic reward systems in gaming platforms raises concerns regarding transparency, fairness, and behavioural manipulation. The current legal framework does not yet provide a dedicated regulatory regime for algorithmic accountability.
- 4. Public Health and Addiction Concerns:** Although the 2025 Act prohibits online money games, concerns relating to gaming addiction persist within permitted gaming categories. A structured public health framework comparable to integrated regulatory models in other jurisdictions remains underdeveloped.

5. **E-Sports Ecosystem Development:** While e-sports are formally recognised under the statutory framework, India still lacks comprehensive regulation relating to player contracts, labour protections, taxation clarity, intellectual property rights, and international mobility for professional players.
6. **Need for Regulatory Coordination:** Effective implementation of the post-2026 regime requires coordinated functioning between the Central Online Gaming Authority, MeitY, the Consumer Protection Authority, financial regulators, and State enforcement agencies to ensure consistency, efficiency, and legal certainty.

Overall, the post-2026 framework reflects a strong prohibition-based regulatory model for online money games combined with a promotion-oriented regime for e-sports. Its long-term success will depend on enforcement capacity, constitutional stability, and the ability to adapt to rapid technological evolution in the digital gaming sector.

VIII. SUGGESTIONS AND RECOMMENDATIONS

In view of the legal, constitutional, and regulatory issues identified in this study, the following recommendations are proposed to strengthen India's framework governing online gaming and e-sports. These recommendations are directed towards the appropriate legislative, executive, and regulatory authorities to promote constitutional certainty, consumer protection, technological accountability, and sustainable growth of the digital gaming sector.

1. **Parliament:** Establish an Intergovernmental Gaming Coordination **Council** to strengthen cooperative federalism, minimise jurisdictional conflicts between the Union and the States, and facilitate uniform implementation of the Promotion and Regulation of Online Gaming Act, 2025.
2. **Ministry of Electronics and Information Technology (MeitY):** Introduce mandatory algorithmic transparency and independent audit requirements for regulated gaming platforms, including disclosure of reward mechanisms, recommendation systems, and user-engagement algorithms.

3. **Central Online Gaming Authority / Parliament:** Develop a comprehensive E-Sports Regulatory Code governing player contracts, tournament licensing, anti-doping measures, intellectual property rights, sponsorship regulation, and dispute resolution.
4. **Union Government and Enforcement Agencies:** Strengthen cross-border regulatory cooperation through bilateral and multilateral arrangements for domain blocking, payment-gateway controls, information sharing, and enforcement against offshore operators targeting Indian users.
5. **Ministry of Health and Family Welfare (in coordination with MeitY):** Establish a National Gaming Harm Prevention Framework incorporating public awareness programmes, counselling services, age-appropriate safeguards, self-exclusion mechanisms, and research on gaming addiction.
6. **GST Council and Data Protection Authorities:** Rationalise the taxation regime by distinguishing regulated e-sports and online social games from prohibited online money games, while introducing sector-specific data protection standards for gaming platforms to strengthen user privacy and consumer confidence.

IX. CONCLUSION

The evolution of India's online gaming and e-sports regulatory framework reflects a decisive constitutional and policy transition in the post-2026 legal landscape. The enactment of the Promotion and Regulation of Online Gaming Act, 2025 (Act No. 32 of 2025), together with the Promotion and Regulation of Online Gaming Rules, 2026, marks a definitive shift from a skill-based permissive model to a prohibition-oriented regulatory regime for online money games, while simultaneously promoting structured development of e-sports and online social gaming.

This transformation redefines the traditional judicially developed distinction between "games of skill" and "games of chance." At a structural level, the new legal framework reflects a recalibration of federal balance under the Seventh Schedule, particularly Entry 34 of List II, which has been judicially interpreted to include regulatory competence over betting-related digital activities. The resulting model prioritises

consumer protection, financial integrity, and public order over market liberalisation and industry expansion. The present study concludes that India's post-2026 regulatory framework represents a decisive shift away from the earlier skill-based permissive model towards a constitutionally supported prohibition-based framework governing online money games. The analysis therefore proceeds on the basis of the current statutory regime and the authoritative interpretation adopted by the Supreme Court, while treating earlier High Court jurisprudence as part of the historical evolution of Indian gaming law rather than the prevailing legal position. Aimed at mitigating systemic social and economic harms associated with real-money gaming.

However, the success of this regime will depend not merely on statutory prohibition but on effective enforcement, technological oversight, and institutional coordination between Union and State authorities. The emergence of offshore platforms, algorithmic gaming systems, and cross-border digital transactions presents ongoing regulatory challenges that cannot be addressed through prohibition alone. Ultimately, India's post-2026 regulatory framework positions the country as an emerging example of constitutional digital regulation, where legislative intent, judicial interpretation, and technological governance converge to shape a tightly controlled yet innovation-aware digital gaming ecosystem.

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