

Article

A Legal Analysis of State Gambling Laws in India

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Abstract: One constitutional paradox in the gambling regulations in India is that the state regulatory authority over betting and gambling (Entry 34, State List) is within the spectrum of the fundamental rights guarantee Article 19(1) (g) and an emerging jurisprudential abstraction of games of skill and games of chance. Current study explores the constitutional principles governing Indian gambling law, the evolution of this law over historical times since the first policy as permissive-regulatory in ancient India and prohibitionist policies in British rule with divergent state-fundamental regulations, the dichotomy of skill and chance which has successfully been codified with landmark cases of the Supreme Court, statutory frameworks of central and state legislative policies, and the transformative effect of the Promotion and Regulation of Online Gaming Act, 2025. By applying an analytical method to the Law Commission of India foundational Report No. 276 (2018) of the doctrine of *res extra commercium* as applied in *State of Bombay v. R.M.D. Chamarbaugwala* (1957) to the Internet-based gambling, modern judicial decisions regarding the regulation of online gambling, and emerging constitutional issues with the 2025 Act, currently awaiting final ruling by the Supreme Court, the paper concludes that the Indian gambling law has been re-formed to rely not on protection. The paper shows that this change also poses significant constitutional concerns over the issue of Article 19(1)(g) violation, proportionality of restrictions and federalism principles, as modern regulatory scholarship suggests evidence-driven governance frameworks that impose protective measures in the form of regulation instead of categorical prohibition.

Keywords: Indian gambling laws; online gaming law; skill versus chance; constitutional rights; federalism

1. Introduction

Regulation of gambling in India is a complex constitutional and policy issue that can be seen as an expression of a conflict among the freedom of entrepreneurs, police-power authority, addiction and social harm. The federalist model of governance with the distribution of betting and gambling to state governments in Entry 34 of List II grants the main powers to state governments with the constitutional limits set by the essential rights protection and the judicial review. This state-based system has faced a radical break in online gaming systems that cross state borders due to digital infrastructures forcing federal action by the Promotion and Regulation of Online Gaming Act, 2025.¹ Katyayana Smriti and Arthshastra in the ancient Indian literature introduced control mechanisms that allowed gambling to be conducted by the state and be taxed, and was one of the first to realize that prohibition is futile. Prohibition was brought about by the colonial rule, which introduced the Public Gambling Act, 1867², with criminal penalties on common gaming houses although s existed for games of mere skill under Section 12. This prohibitionist system was passed on to independent India. The protection of constitutional rights in Articles 19(1)(g) and 301³, it created a unique legal structure, where gambling is *res extra commercium* (outside legitimate commerce) and competitions based on skills are business activities. The 2018 Report No. 276 of the Law Commission of India⁴ concluded that the lack of capability to enforce a total ban had led to a boom in illegal gambling and hence generation and circulation of black-money. The Commission proposed regulatory frameworks including the protection of skill-games and the protection against addiction and exploitation. The 2025 Act, is a categorical break with this evidence-based analysis

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1 <https://www.meity.gov.in/static/uploads/2025/10/8a7f103cefc68ed8aaa2ebc9a2ed7c13.pdf>

2 https://www.indiacode.nic.in/bitstream/123456789/2269/1/AAA1867_03.pdf

3 <https://interstatecouncil.gov.in/wp-content/uploads/2015/06/CHAPTERXVIII.pdf>

4 https://rsdebate.nic.in/bitstream/123456789/687276/1/IQ_246_30072018_S116_p376_p376.pdf

by making a prohibition blanket on all monetary gambling and this is a matter of optimum governing gambling, constitutionality and the principle of federalism.

Current study is a detailed legal analysis of the Indian gaming regulation by constitutional and historical developments, legislative framework on the matter including central and state levels, the skill-versus-chance jurisprudential distinction, recent case regulation issues, and new constitutional lawsuits contesting the 2025 Act. Although there are valid reasons behind regulating the social harms of the effect of online gaming, the ban policy enshrined in the 2025 Act is constitutionally unproportionable and possibly contrary to the fundamental rights protections of skill-based business practices that are already in place.

2. Ancient Regulatory Models of Gambling in India

The Katyayana Smriti and the Yajnyavalkya Smriti directly proposed that the gambling should be state regulated by licensing, taxation and special supervision. The verse 935-939 of Katyayana Smriti says: *When there is no means to prevent gambling in the kingdom, it will be controlled. Gambling must be permitted to be actively conducted in the gambling hall (the hall licensed to be used)*⁵. *The King ought to levy tax on gambling and turn it into a source of income.* This regulatory ideology was pragmatic understanding that an out and out ban is not effective and creates black markets and criminal syndicate. Similarly, Kautilya in his Arthshastra made a distinction between gambling and betting (inanimate objects such as dice) and betting (contest) so that the games which were mainly based on skill were treated differently than those whose main principle is chance (Anonymous 2018). The Arthshastra regulations such as appointment of gambling supervisors (Sabhika) to collect taxes, to arrest the cheaters, to settle disputes, and to issue minimum operation standards can be considered as regulatory governance. The ancient sources were also aware of the pernicious influence of gambling. Rig Veda (10.34.4)⁶ described how the wife of the gambler was left desolate and miserable and the mother was lamenting the son who has become a vagrant. The Manu Smriti described that gambling and betting are identical to open theft. The king will always strive to stop both, and that this (vice) of gambling has in a previous Kalpa to bring about great enmity. The acknowledgement of harms in gambling and the acknowledgement of regulation as the better than prohibition defines the ancient Indian jurisprudence.

It has been hypothesized that regulatory structures of the ancient world represented proto-protective governance in the context of advanced knowledge about harm reduction. The legal conditions set by Katyayan Smriti such as controlled gambling casinos, special control authorities, and courts of dispute are the initial protective measures against exploitation and fraud. The antique notion of separating between gamblers on socio-economic lines, allowing the ruling classes to engage in skill-based gambling under the political excuse of doing so and controlling it with the other classes under the socio-economic shield of vulnerability factor is a form of early stratification. This old structure of gambling-worthiness and gamble scoring are similar to creditworthiness evaluation in banking. The gambling information bureau India limited (GIBIL) idea suggested in the academic literature can incorporate the statistical technology where the psychological and economic ability of the individuals in engaging in responsible gambling activity would be measured, and factors such as indebtedness, gambling history, income, credit scores, and age would be considered (Mangal 2024). will allow skill-based gaming to those economically eligible to play the games- the restatement of the old principles of differentiation applied to online environments.

3. Constitutional Framework and the Res Extra Commerce

The gambling regulatory power in the Constitution is the cardinal tenet of federalism whereby the constituent states are given the functions of the police-power. List II, Entry 34, provides states with exclusive jurisdiction over the betting and gambling, to entrust states the moral and social welfare regulations, as they have better knowledge of the local circumstances and local tastes (Singh 2019). This apportionment confers plenary state power similar to the corresponding state list provisions dealing with morality regulation. This state authority has constitutional limitations under Article 19(1)(g) that guarantees citizens the basic right to practice any profession, or to engage in any occupation, trade or business. Article 301 equally safeguards freedom of trade, and commerce, in the Indian territory. States have the powers in Entry 34 to control gambling but individuals in Article 19(1)(g) have the right to conduct legitimate business.⁷ *State of Bombay v. R.M.D. Chamarbaugwala* (1957) solved this by doctrine of *res extra commercium*.⁸

As per Chamarbaugwala case, gambling is essentially beyond the legitimate commerce, even though it might involve the use of commercial instruments and formalities. The five judge Constitution Bench ruled that gambling was never a component of this ancient country in its trade, commerce or intercourse and that something is extra commercium in its nature and sense. This doctrine provides a hierarchy such that activities that are considered extra commercium do not get any presumptive protection under Article 19(1)(g) and can be categorically prohibited without justification under Article 19 (6) of the reasonableness test. The rationale employed by the Court was on the basis of culture and moral grounds that the gambling was termed as sinful and pernicious by the ancient seers and law-givers of India and has been denounced by in England, Scotland, the United States of America and Australia. However, morality is simply not sufficient to be a ground of *res extra commercium*, and the Court was essentially utilizing the doctrine of police-power that allows the state to limit harmful conduct without the constitutional norm being the one actually applies.

Res extra commercium is deeply entrenched in the Indian constitutional law and essentially defines gambling control. The doctrine establishes categorical dichotomy, namely, gambling as a category is not subject to the protection of Article 19(1)(g), while Chamarbaugwala case has created a critical exception, *i.e.*, competitions that have a significant element of skill applied to them are not governed as gambling, but are instead afforded protection as business activities.

⁵ <https://www.wisdomlib.org/hinduism/book/katyayana-smriti-sanskrit/d/doc369260.html>

⁶ <https://www.wisdomlib.org/hinduism/book/rig-veda-english-translation/d/doc838884.html>

⁷ <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2024/07/20240716890312078.pdf>

⁸ *R.M.D. Chamarbaugwala v. Union of India*, 1957 SCC Online SC 11

The cases of Chamarbaugwala make a game to be subject to the classification of gambling, making the initial step a substantial degree of skill dominance⁹. This exception indicates that skill-based competitions are legitimate businesses that should be granted the protection of Article 19(1)(g) notwithstanding fall. That falls under the extensive competitive gaming. A contest to prevent the taint of gambling must to a significant extent rest on the use of skill. This substantial degree or this predominance test standard established a sliding scale model in which the courts evaluate whether skill or chance is the dominant factor in the results of the games. The Court made it clear that not many games, and possibly not any, involve pure use of either chance or skill. The courts have to determine the prevailing element, whether it be skill or chance, after which the nature of the game can be determined. The classification of a game is based on an empirical analysis of the mechanics, rather than categorical a priori classification.

4. Laws Public Gambling Act (1867 to 2025)

The initial general law, the Public Gambling Act of 1867¹⁰, officially criminalized the public gambling and common gaming houses (places opened, occupied, used or kept to play games) and provided detailed penalties. Section 3 outlawed running common gaming houses (fine not more than two hundred rupees or three months imprisonment), whilst Section 4 outlawed gambling (fine not more than one hundred rupees of three month's imprisonment). Section 12, which would be crucial in this case, states: "Act not to apply to some games," which makes it clear that the games of mere dexterity are not covered by the prohibitions of the Act. This legal exemption sets parliamentary intent to distinguish between competitions where skills and not chance are relied upon to protect and those where gambling is banned. This exemption has been critical in the survival of the skill gaming industry as platforms of rummy, fantasy sports providers, and poker websites have been allowed to run legally despite limitations on the gaming markets.^{11,12} The colonial nature of 1867 Act and the fact that it is not amended enough offer severe inefficiency in the case of modern online gaming regulation. The Act does not cover digital platforms, virtual money, and cross-border transactions and specific features of online gambling ecosystems. Its use for online gaming has been disputed as some courts consider online transactions to be covered by the Act whilst other courts consider the Act to only cover physical structures. This imprecision triggered the need to have state-specific legislation to deal with internet gaming, creating the modern fragmented regulatory system.

Strategies lie between the extreme of categorical prohibition and the permissive licensing systems. The recent amendment of the Gaming Act 1974 in 2017 Telangana provides blanket prohibition of all online gambling including skill-based games.¹³ Andhra Pradesh equally in its Gaming Act (1974) amended in 2020 prohibits all forms of gambling online.¹⁴ These states safeguard prevention of addicts and vulnerable populations instead of protecting skill games and freedom of entrepreneurs. The Tamil Nadu 2022 Prohibition of Online Gambling and Regulation of Online Games Act outlaws online gambling (games where the element of chance prevails over the element of skill) and sets up regulatory systems for skill-based games via the Tamil Nadu Gaming Authority. This model allows regulating online gaming based on skills, age (underage is not allowed), and financial regulation (limited deposit and playing sums).

Tamil Nadu spawned a lot of litigation on particular categories of games. Madras High court in All India Gaming Federation v state of Karnataka decided that rummy and poker were games of skill with binding Supreme Court precedent, invalidating efforts to classify them as games of chance.¹⁵ The ruling essentially limited the powers of states to enact new legislation determining that states cannot evade Supreme Court skill-game. Goa has legalized land-based casinos and some online gaming activities under the Goa, Daman and Diu Public Gambling Act (1976) which grants gaming licenses to operators under certain specifications.¹⁶ Nagaland explicitly identifies poker and rummy as skill-based games through the Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act (2016) and prohibits gambling games of chance.¹⁷ Sikkim via Online Gaming (Regulation) Act (2008) allows online casinos, online sports betting and online lottery, which may be licensed and regulated by the state.

The 2018 Report No. 276 by the Law Commission of India concluded that enforcement of prohibition is ineffective in deterring the activity of illegal gambling that leads to proliferation of black-money and black-money circulation. Regulatory frameworks were suggested by the Commission, indicated that as it's not possible to stop these activities, an efficient regulation is the sole solution (Reith 2012). There are various benefits of regulatory models over categorical prohibition. Open platform monitoring helps identify fraudulent operators and implement anti-money-laundering measures, mandatory player protection measures in the form of monetary limits, responsible gaming equipment, age checking, revenue in the form of licensing fees and taxation to channel the private profit motive to social benefit; setting minimum operational levels and technology controls by licensing requirements; and removal of the daily gain motive to predatory marketing behavior inherent in prohibit. The Commission particularly suggested acknowledging skill-based games as legal businesses under Article 19(1)(g) coverage; licensing platforms that lead to some regulatory control; player protection such as limits on deposit, limits on income, and age checks; annexation of all gambling operations to PAN and Aadhaar to provide transparency and tracking; and separation of gambling into proper gambling (higher stakes, higher income requirement) and small gambling (lower stakes, lower income requirement) with respect to the aspect of vulnerability (Gainsbury 2017).

⁹ K.R. Lakshmanan v. State of T.N., (1996) 2 SCC 226

¹⁰ Public Gambling Act, 1867, No. 3 of 1867

¹¹ State of A.P. v. K. Satyanarayana, 1967 SCC Online SC 333

¹² Shri Varun Gumber v. Union Territory of Chandigarh and Ors., CWP No. 7559 of 2017

¹³ Telangana Gaming (Amendment) Act, 2017 (Act No. 29 of 2017)

¹⁴ Andhra Pradesh Gaming (Amendment) Act, 2020 (Act No. 43 of 2020)

¹⁵ All India Gaming Federation v. State of Karnataka, 2022 SCC Online Kar 131 (Karnataka High Court).

¹⁶ Goa, Daman and Diu Public Gambling Act, 1976 (Act 14 of 1976)

¹⁷ The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015(ActNo.3 of 2016)

5. The Skill Versus Chance Dichotomy of Jurisprudence

The skill-versus-chance distinction, created by the Supreme Court, is used to interfere between the protection of Article 19(1)(g) and the prohibition of gambling. The *R.M.D. Chamarbaugwala v. State of Bombay* (1957) set forth the initial, and still commonly used, "predominance test" to avoid classification as gambling, competitions must to a significant extent require the exercise of skill. This test is applied by granular factual analysis of game mechanics, player agency, and probability distributions. The Court acknowledged that not many games, and perhaps none, are governed by pure chance or skill, and there had to be an identification of the preponderant element, that is, whether the game is a game of skill or a game of chance. Judicial analysis is aimed at determining relative contributions of chance and skill to the outcome of games. The Court failed to provide clear quantitative standards by which the skill prevails, allowing a high level of judicial discretion in various courts.

Andhra Pradesh v. K. Satyanarayana (1968) established that rummy is a game of skill though it also has chance elements. The Court held that rummy involves memorization of how the cards fall, building up sequences and a great deal of skill in holding and discarding cards, and games with more than one element of skill such as strategic decision-making, memorizing, probabilities, pattern recognition could overcome the element of chance.

Dr. K.R. Lakshmanan v. The State of Tamil Nadu (1996) used the predominance test for horse racing concluding that horse racing is a skill game. The Court underlined that efficient wagering requires only major and essential importance on training, excellent knowledge, experience, attention and adroxx of the player and professional examination of the racing conditions, racehorse shape, and jockey skills. This ruling broadened the scope of the skill protection to include non-competitive games that involve wagering, and the success is based on predictive rather than chance expertise. High court rulings on fantasy sports were done in parallel. *Varun Gumber v. Union Territory of Chandigarh* (2017) concluded that fantasy sports sites amount to skill-based gaming indicating that the success relies on the ability of the users to exercise their skill according to greater knowledge, judgment and focus¹⁸. *Gurdeep Singh Sachar v. Bombay High Court* was reaffirmed by the Union of India which indicated that fantasy sports are based on the exercise of skill, better knowledge, judgment and attention by the users and not necessarily by the external sporting results.¹⁹

For poker, in *M/S DM Gaming v. Allahabad High Court*, the court observed that the father was indeed an underage at the time of the marriage.²⁰ State of UP has acknowledged poker as high skill, where poker was seen to be predominantly chance, the Gujarat High Court in *Dominance Games Pvt. Ltd. v. State of Gujarat* has determined that poker is a game of chance even with the presence of strategic input based on the presence of hidden information and involuntary risk.²¹

6. The Promotion and Regulating Online Gaming Act 2025

The Promotion and Regulation of Online Gaming Act, 2025 is a new move for casinos as it provides a national regulation of online gambling in all states.²² The Act bans online money games, which are games that have a wagering or betting of money or stakes, and include both games of chance and games of skill which include monetary aspects. This ban on money-gaming is nothing short of a fundamental departure in the area of precedent jurisprudence of skill-based competition, which applies the ban to online poker, rummy, and fantasy sports when played in money. Section 3 makes it illegal to extend online money gaming services and the penalty of this includes up to three years of imprisonment and a fine of up to one crore rupees. Section 6 also carries similar punishment procedures on advertising or funding of money-gaming services. Section 5 bans financial institutions and payment gateways to process money-gaming transactions, banning infrastructure to make money-gaming platforms operational. Notably, the Act does not prohibit online games of skill that do not entail financial rewards, online social games and e-sports. This prohibition, which is not based on skills but on stakes, allows infinite skill application in case there is no monetary betting and cuts off protection of skill-based gaming and rights of speculation with money. The Act thus changes the regulatory paradigm between skill-versus-chance (the establishment of prohibition eligibility) to stakes-based establishment (the establishment of prohibition regardless of the content of the skill).

The Act has significant constitutional weaknesses regarding violation of Article 19(1)(g) and competence of parliament. The constitutional control of the central government to control online gambling is disputed. The gambling regulation is State-regulated by Entry 34 of the State List. but the capacity of parliament to tax gambling in other areas than as a part of communications infrastructure (applying Entry 31, Union List) is doubtful. The constitutional memorandum issued by the government to ban online gaming defines online gaming as the communications infrastructure regulation that is within the parliamentary powers. The rationale seems to be farfetched, which arguably turns communications competence into substantive gambling regulation power. Accepting this logic would power the parliament to govern any activity of the State List that is transferred to the online arena via the jurisdiction of the communications infrastructure, in effect abolishing autonomy of the states. The blanket ban on skill-based money games in the Act infringes upon the protections of Article 19 (1)(g) created via the jurisprudence of precedent. The *Chamarbaugwala* set that competitions founded on skill are a type of business, which is covered in article 19(1)(g). Although the Court held that the gambling based on chance is not covered by the protection of Article 19(1)(g), the Court clearly nourished the skill-based business. The Act outlaw's online rummy, poker, and fantasy sports wagering on the prohibitive basis is a likely breach of this precedent, as it outlaws lawful restricted skillful business affairs.

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

¹⁹ *Gurdeep Singh Sachar v. Union of India*, 2019 SCC Online Bom 13059 (Bombay High Court).

²⁰ *M/s DM Gaming Private Limited v. State of Uttar Pradesh* (WRIT - C No. - 3880 of 2024)

²¹ *Dominance Games Pvt. Ltd. v. State of Gujarat*, 2017 SCC Online Guj 1838

²² The Promotion and Regulation of Online Gaming Act, 2025 (Act No. 32 of 2025)

Article 19(6) is a prohibition being a reasonable restriction in the interest of the general population. This alleged public interest is based on the purported addiction to gambling, predatory marketing to the weak groups, money laundering and financing of terrorism and overindulgence in gambling by the youths. Nevertheless, the proportionality analysis is problematic. It is limited to skill-based games in which personal know-how is important in determining the result, making it questionable as to whether the issue of addiction and exploitation is equally valid. The problematic involvement can be predisposed not only by the specifics of the platform design (variable ratio reinforcement, addictive mechanics), but also by the role of the game skill content. The ban is excessive and precise steps such as advertising bans, player protection gear (financial constraints, time restrictions, age regulation), licensing, and operator safeguards may meet the goal of public interest protecting the skill-games. There seems to be no difference between physical and online skill-based gaming. Should the rummy amount to the type of substantial business under Article 19(1)(g) as defined by Satyanarayana, online gambling does not amount to a rational basis of prohibition scrutiny under Article 14. This is exactly the principle that the Madras High Court in All India Gaming Federation determined, as states may not justifiably ban medium basis without being shown to have materially changed the mechanics of the game.

The adoption of the Act concerning an Entry 34 (State List) issue is a basic federalism issue. Although the Parliament may legislate on matters that are concurrent and on entries, Entry 34 seems to have exclusive state competence. The memorandum in the Act overcomes this restriction by characterizing legislation to cover communications (Entry 31), as online gaming is a regulation of communications infrastructure. However, this excuse violates the appropriate boundaries of Entry 31. This is an entry about communications infrastructure, and does not substantially regulate what is actually going on using infrastructure. Interaction between the Act and state legislation creates more federalism issues. States that allow skill-based gaming (Tamil Nadu, Nagaland, Sikkim) are facing a possible collision of state-licensing authority and federal criminal law. The Act overrides state licensing authority which makes state licensed online rummy site illegal under federal law regardless of state approval.

Several petitioners such as gaming sites (Head Digital Works) as well as industry associations (All India Gaming Federation) and individual entrepreneurs have petitioned the constitutional validity of the 2025 Act in the Supreme Court.²³ The Court combined all the challenges to a common consideration which have been scheduled to have hearings in a bench of Justices J.B. Pardiwala and K.V. Viswanathan. According to the petitioners, the online money games are subject to prohibition. Parliament has no competence to ban the internet under the entries held in the Union list, the prohibition is unconstitutional as it does not justify the Article 19(1)(g); arbitrary differences between online and land-based skills games are unconstitutional under Article 14; the prohibition does not comply with the principle of proportionality in relation to Article 19(6); and the prohibition attempts. Money gaming online is *res extra commercium*, which is not entitled to Article 19(1)(g) protection and parliament has an unfettered power within communications infrastructure competence to issue prohibition. In another appeal to the Supreme Court, the Centre claimed that the unrestricted online money gambling has obvious dangers to national security, civil peace and financial independence by connecting it to money laundering, combating terrorism and organized crime.

7. Comparisons with International Practices

The UK as an entity with the Gambling Act 2005 is to enforce thorough regulation licensing alongside the obligatory player protection measures such as self-exclusion, deposit facilities, reality-check, and restrictions on responsible advertisements.²⁴ The regulatory decisions on game classification are based on criteria developed in which underlying games are evaluated with regard to the predominance of skills involved but the regulatory bodies (UK Gambling Commission) are able to reclassify games through empirical evidence on patterns of exploitation or harm. In Australia, state-based licensing is enforced with federal coordination, provision of minimum protective standards such as the mandatory identification checks, player account expenditure expenditures, self-exclusion databases, frequent harm evaluation, and problem gambling treatment research funding. Switzerland has regulatory licensing focusing the consumer protection and transparency stipulations, which involves the requirement of licensed operators to introduce technical safeguarding, fraud prevention, and financial separation to protect player funds. Good gambling regulation needs regulatory sophistication that deals with open operator check-ups, by use of licensing; mandatory tooling of the players, the use of technology; financial segregation, ensuring the protection of player funds; independent dispute resolution, so that players receive recourse; public resources, generated by taxation; and continuous data collection, to provide evidence-based adjustment of regulations.

Prohibitory laws incur expenses such as the loss of revenue, loss of employment, lowering the GDP, lowering welfare programs, higher surveillance costs, and amplified undercover gambling in the black markets. The advantages are lower crime rates, protection of the vulnerable population, low incidences of loan sharking and low black-money parallel economy. Prohibitory effectiveness is, however, found to be a differential depending on addiction status. For addicted gamblers, prohibition only creates a small effect of deterrence since the demand to engage in gambling does not reflect inelasticity to the demand curve, as the demand curve reflects that the less the punishment is applied, the less the practice will be reduced. For non-addicted gamblers, prohibition, is more effective due to the elasticity of demand in this case, demand will approach or surpass price increase (Williams 2011). Prohibitory legislation is therefore effective in preventing non-addicts and ineffective on addicts. The permissive laws lead to rise in crime rates, population vulnerability, rise in the number of addicted gamblers, growth in the black-money parallel economy, and rise in economic inequality. Advantages are generation of revenue and jobs, decreased covert gambling, economic growth and improvements in tax base (Williams 2004).

Permissive structures potentially transform the non-addicted gamblers to addicted gamblers due to steepening the punishment-practice curve at the expense of the punishment reduction, and effectively encouraging more people to participate by removing enforcement restrictions to access gambling. Regulatory laws put the principles of middle-path approach internalization of benefits

²³ Head Digital Works Pvt. Ltd. v. Union of India, W.P. (C) No. 26233/2025

²⁴ Gambling Act 2005, c. 19 (UK).

of the prohibitory provisions and at the same time capture the benefits of permissibility and restrict harms of permissibility. Regulatory frameworks allow, revenue collection and creation of protective guardrails against supply-side exploitation; creating jobs and allowing the establishment of licensing standards against predatory practices; transparency in markets and allowing economically competent individuals to participate, vulnerable populations are safeguarded, and addicts successfully identified and treated. This framework favors Law Commission recommendations that found that regulatory governance is best socio-economic practice.

8. Current Issues and Policy Implications

Internet gaming websites have massive reported harms requiring guardian regulatory measures. The youth addiction, fiscal loss by way of predatory platforms design, family destruction by problem gambling and connection to organized crime and money laundering are some of them. Online money gaming is a clear danger to national security, local order and financial sovereignty due to platform connection with money laundering, terror financing, organized crime, and informal financial systems. These harms warrant justified regulatory intervention to deal with addiction vulnerability, exploitative platform design, predatory marketing to minors and vulnerable populations and cross-border financial implications. The question is however whether categorical prohibition is required to help to overcome these harms or whether harms may be held within evidence-based regulatory protection without taking away skill-based gaming rights and lawful entrepreneurship.

The use of technology to establish protective measures may be applied to realize the principle of gambling-worthiness in the pre-modern approach of the use of advanced statistical assessment techniques. Gambling Information Bureau India Limited (GIBIL) proposed assessment of the psychological and economic risk capacity to conduct responsible gambling by the individuals and would include the factors such as mitigating factors (income, age, credit score, credit utilization) directly proportional to the gambling worthiness and aggravating factors (indebtedness, gambling history, involvement with loan sharks) inversely proportional to the gambling worthiness.

These systems might allow detecting problem gamblers and pathological gamblers on the basis of real-time data processing, the implementation of intervention mechanisms such as a required wait time, a reduction in the spending limit, or the temporary suspension of the account (Gainsbury 2017). Technology facilitated platforms can be used to introduce age verification requirements, account linkage to PAN and Aadhaar based on KYC, limits on transactions and time-based spending limits to ensure the exploitation of vulnerable groups is not exploited and at the same time those capable of playing with skill-based participation may continue responsibly. This applies modern restatement of the old rules of protection that are custom-made to digital infrastructure.

Even legislation is not enough to have a proper gamut of gambling governance and have supplementary informal and formal education mechanisms. School and university based formal education is able to pass gambling laws, constitutional provisions of core rights, and cost benefit analytical structures that allow an informed citizenship around gambling policy. Family, community, and cultural impartation of values about the evils of gambling and the need to be financially responsible is equally very important as an intervention mechanism in the case of gambling (Derevensky and Lynette 2019). A combination of legislative protection (hard power), official education and community awareness (soft power), and technological protection mechanisms is a smart power approach to multidimensional gambling governance issues. This holistic thinking is a manifestation of ancient Indian jurisprudence that understands the need and restriction of regulation, and its current knowledge in the field of behavioral economics and the potential of technology to serve as protection.

9. Conclusions

The Indian gambling law has a unique constitutional structure where state regulatory authority is shared between the federation but within the limits of fundamental rights and developing jurisprudential positioning between skill-based competitions and pure-chance gambling. The evidence-based regulatory governance was laid on the 2018 Law Commission pragmatic analysis indicating that prohibition had failed to collect revenue, consumer protection, and crime reduction. Promotion and Regulation of Online Gaming Act, 2025 bans all monetary gaming no matter how skill-based it is, putting significant constitutional challenges on Article 19(1) violations of Article 19(1) (g), proportionality of restrictions, and federalism principles. The upcoming Supreme Court case will answer the competencies of the Parliament to regulate the online affairs, which are included in the List of State items; the relevance of the skill-versus-chance distinction; the analysis of the proportionality of the gambling bans laws; and federalism in the platform age. A Supreme Court decision supporting the Act will put the protection of skill games under that of federal prohibition, and possibly provide federal government wide authority over any activity that goes online in the State List. A ruling that would invalidate the Act would reaffirm protection of skill-games and provided rigid limits on the federal intervention regarding issues on state lists. Gambling governance demands that skill-based games represent profitable business operations, which ought to receive Article 19(1)(g) protection; that regulatory frameworks that adapt protective measures can help to address legitimate social issues without jeopardizing the protection of skill-games; that the protection of online gambling ecosystem harms is under-researched; and federalism principles must not overlook the importance of state regulatory authority. The Supreme Court will create precedent that will have far-reaching impacts across the board, evidencing whether constitutional rights protection limits categorical legislative prohibitions supported by social welfare issues, as well as whether federalism principles can still work in the platform age in which activities are now bypassed by the traditional state boundaries by using digital infrastructure.

References

- Anonymous. 2018. Law Commission of India, Report No. 276 – Legal Framework: Gambling and Sports Betting including in Cricket in India. https://rsdebate.nic.in/bitstream/123456789/687276/1/IQ_246_30072018_S116_p376_p376.pdf
- Derevensky, Jeffrey L and Lynette Gilbeau. 2019. Preventing Adolescent Gambling Problems. *Gambling Disorder*: 297-311. https://doi.org/10.1007/978-3-030-03060-5_14
- Gainsbury, Sally Melissa. 2017. Technology and responsible gambling: The future of player protection. *International Gambling Studies* 17: 434–447. https://doi.org/10.1007/978-1-4614-3390-3_7

- Kearney, Melissa S. 2005. Gambling, poverty and public policy. NBER Working Papers. National Bureau of Economic Research, Inc. <http://www.nber.org/papers/w11234>
- Mangal Satyam. 2024. Regulation of gambling in India: a way forward in the direction of responsible and sustainable gambling. *GNLU Journal of Law & Economics* 7: 81-102. <https://doi.org/10.69893/gjle.2024.000069>
- Reith, Gerda. 2012. Regulating gambling: A global overview. Oxford University Press, UK.
- Robert, J. Williams, Jurgen Rehm, and Stevens Rhys M. G. 2011. The social and economic impacts of gambling. *Canadian Consortium for Gambling Research*: 1-283. https://gamblingriskinformednovascotia.ca/wp-content/uploads/2019/01/SEIG_FINAL_REPORT_2011.pdf
- Singh, Mahendra Pal. 2019. V. N. Shukla's Constitution of India. 14th ed. Eastern Book Company: 1-1256. https://www.ebcwebstore.com/product/v-n-shukla-constitution-of-india-revised-by-mahendra-p-singh?products_id=100139&srsltid=AfmBOokFxdyBWr5znH9n4a-vWbGTc3xcKtuLvwjZhWIehmL6IpLVFU
- Williams, Robert J, and Robert T. Wood. 2004. The legalization of gambling: A survey of economic and social effects. *Journal of Gambling Studies* 20: 125–155.