



Constitutional and Legal Framework for Online Gaming in India: The Promotion and Regulation of Online Gaming Act, 2025

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Abstract

India's digital expansion has transformed online gaming into a significant economic and social phenomenon. While judicial decisions have recognised games of skill as protected under Article 19(1)(g) of the Constitution, gambling remains outside constitutional protection. Divergent State approaches created regulatory fragmentation and uncertainty in digital space. The Promotion and Regulation of Online Gaming Act, 2025 establishes a nationwide framework prohibiting online money gaming and introducing central oversight. This research paper analyses constitutional doctrine, landmark judicial precedents, legislative competence, and the proportionality of the 2025 Act. It further evaluates the Act's implications for youth protection, digital unity, and responsible governance. The study argues that coherent and constitutionally balanced regulation strengthens India's digital sovereignty and advances a shared constitutional vision grounded in unity, responsibility, and long-term national development.

Online gaming, Constitutional freedom, Proportionality, Digital sovereignty, Youth protection, National regulation

1. Introduction:

India's demographic strength lies in its youth. Online gaming platforms are widely used by young citizens. While digital platforms can promote innovation and strategic skill, unregulated monetary gaming may cause financial distress and psychological impact. Swami Vivekananda's message remains relevant: "**Arise, awake and stop not till the goal is reached**" (Vivekananda, 1897/1997).¹ The message emphasises discipline and purposeful action. Regulation that safeguards youth aligns digital participation with constructive national

¹ <https://vivekavani.com/arise-awake-goal-swami-vivekananda/>

development. Responsible governance of digital platforms supports productivity, stability, and long term growth. India's constitutional system is founded on liberty, equality, and social welfare. As economic and social life increasingly shifts to digital platforms, constitutional governance must adapt to new technological realities. Online gaming represents one of the most visible developments in India's digital economy. The sector generates employment, innovation, and investment. At the same time, concerns regarding addiction, financial loss, and participation of minors have triggered constitutional and legislative debate. The central legal question has been whether online gaming constitutes protected trade under Article 19(1)(g) of the Constitution or whether it falls within gambling, which is not constitutionally protected.² The Promotion and Regulation of Online Gaming Act, 2025 marks a decisive intervention by Parliament.³ It seeks to create uniform national standards in digital space and address perceived social harm.⁴ Its constitutional validity depends upon balancing economic freedom with public welfare.

2. Objectives:

- 1.To examine the constitutional position of online gaming in India with reference to Article 19(1)(g) and the judicial distinction between skill based gaming and gambling.
- 2.To analyse the constitutional validity and legislative competence of the Promotion and Regulation of Online Gaming Act, 2025 in light of proportionality and reasonable restriction.
- 3.To assess whether a uniform national regulatory framework promotes digital unity, youth protection, and responsible governance in contemporary India.

3. Research Methodology:

This study adopts a doctrinal legal research methodology. It is based on analysis of constitutional provisions, statutory enactments, and judicial precedents relating to gambling and online gaming. Landmark Supreme Court and High Court judgments are examined to trace the evolution of the skill versus chance doctrine. The Promotion and Regulation of Online Gaming Act, 2025 is analysed in detail to evaluate its structure, objectives, and constitutional

² State of Bombay v. R.M.D. Chamarbaugwala, AIR 1957 SC 699

³ The Promotion and Regulation of Online Gaming Act, 2025, No. 110 of 2025, India Code (2025), https://prsindia.org/files/bills_acts/bills_parliament/2025/Bill_Text-Online_Gaming_Bill_2025.pdf.

⁴ Ministry of Electronics and Information Technology, "Report on Online Gaming and Digital Regulation," Government of India, 2025.



implications, particularly under Article 19(1)(g) and the doctrine of proportionality. Comparative reference to international regulatory models provides contextual understanding. The research is analytical and interpretative in nature.

4. Constitutional Foundations: Human Impact of Online Gaming:

Imagine a young adult spending hours every day on online gaming platforms. What begins as harmless entertainment gradually turns into an obsession. Sleep is reduced, meals are skipped, and attention to studies or work declines. Anxiety increases with every loss, and financial stress grows as real money is wagered, creating emotional turmoil.⁵ Family relationships are strained, social withdrawal intensifies, and a persistent sense of failure develops. Psychologically, compulsive behavior takes hold. Medically, chronic stress and lack of sleep affect the heart, brain, and overall immunity.⁶ Articles 19(1)(g) and 21 provide the constitutional context.⁷ While freedom to engage in trade or digital activity exists, it cannot compromise life, health, or dignity. Constitutional realism requires understanding how liberties interact with human vulnerability. Constitutional morality emphasizes the ethical responsibility to balance freedom with welfare.⁸ Online gaming demonstrates this tension vividly, as economic or recreational freedom often conflicts with the fragile human psyche. The lived experience of the gamer shows that law and policy cannot be abstract. Skill, chance, or commerce cannot be considered in isolation. Protecting life, mental health, and dignity is a constitutional imperative and highlights the need for responsible engagement in the digital age.⁹ Article 19(1)(g)¹⁰ guarantees the right to practise any profession or carry on any occupation, trade, or business. However, Article 19(6)¹¹ permits reasonable restrictions in the interest of the general public. In the case of *Chamarbaugwala*¹², the Supreme Court held that gambling activities are not protected by Article 19(1)(g) as they are *res extra commercium*. However, in *K.R. Lakshmanan v. State of*

⁵ Griffiths, M.D., "Online Gambling and Mental Health," *Journal of Behavioral Addictions*, 2018; <https://doi.org/10.1556/2006.7.2018.30>

⁶ King, D.L., et al., "Health and Psychological Effects of Gaming Addiction," *International Journal of Mental Health*, 2019; <https://doi.org/10.1080/00207411.2019.1641987>

⁷ Constitution of India, Articles 19(1)(g) and 21; Government of India, Ministry of Law and Justice; <https://www.india.gov.in/my-government/constitution-india>

⁸ Dworkin, R., *Law's Empire*, 1986; Baxi, U., "Constitutional Morality and Social Justice," *Indian Journal of Constitutional Law*, 2020.

⁹ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*, 2013; WHO, *Gaming Disorder Fact Sheet*, 2020; <https://www.who.int/news-room/fact-sheets/detail/gaming-disorder>

¹⁰ <https://indiankanoon.org/doc/935769/>

¹¹ <https://indiankanoon.org/doc/626103/>

¹² AIR 1957 SC 699



Tamil Nadu¹³, the Supreme Court clarified that games involving substantial skill are not gambling. The Court held that where success depends primarily on knowledge, training, and judgment, constitutional protection applies. This distinction between skill and chance became the doctrinal basis for evaluating online gaming.

5. Judicial Approach to Online Gaming

The constitutional analysis of online gaming in India is rooted in the jurisprudence developed by the Supreme Court on gambling and games of skill. Although these decisions predate the digital era, they continue to govern the legal position.

In *State of Bombay v. R.M.D. Chamarbaugwala*, the Supreme Court held that gambling activities fall outside the scope of protection under Article 19(1)(g) of the Constitution as they are considered *res extra commercium*. However, the Court clearly distinguished competitions that involve substantial skill, observing that such activities cannot be equated with pure gambling. This decision laid the foundation for the constitutional differentiation between protected economic activity and wagering.

The principle was further elaborated in *State of Andhra Pradesh v. K. Satyanarayana*¹⁴, where the Supreme Court examined whether the card game rummy constitutes gambling. The Court held that rummy requires considerable skill, including memorisation, calculation and strategic judgment. While chance is present in the initial distribution of cards, the Court concluded that the element of skill predominates. Therefore, rummy was not treated as gambling within the meaning of penal law.

The most authoritative exposition of the skill predominance test is found in *K.R. Lakshmanan v. State of Tamil Nadu*.¹⁵ In this case, the Supreme Court examined whether horse racing constitutes gambling. The Court held that success in horse racing depends upon knowledge, training, experience and analytical assessment of multiple factors. It affirmed that even if chance is involved, the determinative test is whether skill is the dominant element. Where skill predominates, the activity constitutes legitimate business protected under Article 19(1)(g).

These judgments are binding under Article 141 of the Constitution and continue to guide courts in evaluating gaming activities, including those conducted through digital platforms.

¹³ 1996 AIR 1153, 1996 SCC (2) 226, JT 1996 (1) 173

¹⁴ 1968 AIR 825, 1968 SCR (2) 387, 1968 (1) SCWR 225.

¹⁵ 1996 AIR 1153, 1996 SCC (2) 226, JT 1996 (1) 173, 1996 SCALE (1)208

Although the Supreme Court has not delivered a detailed reported judgment exclusively addressing online fantasy sports or digital gaming platforms, it has declined to interfere with High Court decisions that applied the skill predominance doctrine to online formats. The dismissal of Special Leave Petitions challenging such High Court rulings indicates judicial continuity with the established constitutional position.¹⁶ Accordingly, the prevailing legal framework at the level of the Supreme Court remains anchored in the skill versus chance distinction. The transition from physical to digital medium does not alter the constitutional inquiry. The decisive question continues to be whether skill predominates over chance. If it does, the activity qualifies as protected trade subject to reasonable restrictions under Article 19(6).¹⁷

6. Legislative Competence and Federal Structure

Betting and gambling fall within Entry 34 of the State List. However, online gaming operates through digital networks that transcend State boundaries. Parliament may invoke powers under Entry 31 of the Union List relating to telecommunications and Entry 97 relating to residuary matters. The constitutional question is whether central regulation encroaches upon State powers. In the digital age, fragmented State legislation can create enforcement challenges and regulatory conflict. A central framework may therefore be justified to ensure uniformity and prevent legal inconsistency across States. The 2025 Act reflects Parliament's attempt to respond to a borderless digital environment within a federal structure.

7. The Promotion and Regulation of Online Gaming Act, 2025: A Structural and Constitutional Analysis

The enactment of the Promotion and Regulation of Online Gaming Act, 2025, Act No. 32 of 2025, marks a decisive legislative intervention in India's digital regulatory landscape.

¹⁸Published in the Gazette of India on 22 August 2025 and subsequently corrected through Corrigenda dated 28 August 2025¹⁹, the statute represents Parliament's assertion of national

¹⁶ <https://economictimes.indiatimes.com/tech/startups/supreme-court-upholds-dream11-fantasy-sports-format-as-game-of-skill/articleshow/85040855.cms>

¹⁷ <https://www.legalserviceindia.com/legal/legal/legal/article-12100-evolution-of-jurisprudence-on-online-games.html>

¹⁸ Press Info. Bureau, Gov't of India, Promotion and Regulation of Online Gaming Bill, 2025 (Aug. 21, 2025), <https://www.pib.gov.in/PressNoteDetails.aspx?NoteId=155075>.

¹⁹ <https://www.meity.gov.in/static/uploads/2025/08/dd5d971e6e54b3949f57cee34c8e5026.pdf>

competence over an increasingly complex and transnational digital activity. Unlike earlier fragmented State approaches grounded in colonial gambling legislation, this Act establishes a unified national framework. Its architecture reflects a deliberate legislative strategy: promotion of legitimate digital gaming on one hand and categorical prohibition of online money gaming on the other.

7.1 Legislative Design and Conceptual Classification:

The Act is divided into six Chapters comprising twenty sections. Its internal structure reveals a careful differentiation between various categories of online games. Section 2 provides definitions that form the conceptual backbone of the statute.

Three categories are distinctly recognised:

First, e sports, defined under Section 2(1)(c), are competitive online games recognised under the National Sports Governance Act, 2025. These are skill driven and may involve participation fees strictly limited to administrative purposes. They cannot involve wagering or staking. Second, online social games under Section 2(1)(i) are recreational or educational games which may charge subscription fees but do not involve staking money with expectation of monetary return. Third, and most significantly, online money games under Section 2(1)(g) include any online game, irrespective of whether based on skill or chance, played by paying fees or depositing money in expectation of winning monetary enrichment.²⁰

7.2 Promotion and Structured Development:

Chapter II reflects the developmental vision of the legislation. Sections 3 and 4 impose a positive obligation upon the Central Government to recognise and promote e sports and online social games. These provisions authorise the creation of guidelines, training institutions, research centres, awareness programmes and coordination mechanisms with State Governments. The legislative intent is therefore not hostile to digital gaming as such. Instead, it distinguishes between constructive digital engagement and financially risky gaming practices. By doing so, the Act seeks to integrate India into the global digital creative economy while maintaining regulatory discipline. This dual character of promotion and prohibition underscores the balancing function of the statute.²¹

²⁰ *ibid*

²¹ <https://www.meity.gov.in/static/uploads/2025/10/18bae7782749f36ebb062fdb0b2607ea.pdf>



7.3 Absolute Prohibition of Online Money Gaming: The normative core of the Act lies in Chapter III.

Section 5 imposes a complete prohibition on offering, aiding, abetting or engaging in online money games or online money gaming services. The prohibition is comprehensive and extends beyond operators to facilitators.

Section 6 prohibits advertisement of online money games in any media, including electronic communication. This provision recognises the persuasive power of digital marketing and influencer endorsement in shaping youth behaviour.

Section 7 prohibits banks, financial institutions and intermediaries from facilitating transactions related to online money gaming services. By cutting financial channels, the Act attacks the operational infrastructure of such platforms.²²

Taken together, these provisions represent a total regulatory embargo on online money gaming. The prohibition is not conditional, not regulatory, and not partial. It is categorical. This approach reflects Parliament's assessment that monetary stakes in digital gaming pose systemic risks, including financial exploitation, addiction, public health concerns, and potential links to unlawful financial flows.

7.4 Establishment of the Regulatory Authority

Section 8 provides for the constitution of an Authority on Online Gaming. The Authority is vested with powers to determine whether a particular game qualifies as an online money game, to recognise and register permissible games, and to issue binding directions. Every person offering or facilitating online games is statutorily bound to comply with directions, guidelines and codes of practice issued by the Central Government or the Authority. This centralised institutional mechanism aims to ensure uniformity in application and to prevent inter State inconsistency. Given the borderless nature of digital platforms, a central regulator reflects legislative preference for national coherence.

7.5 Penal and Enforcement Mechanisms

Chapter V reinforces the prohibition on online money gaming. Section 9 prescribes imprisonment up to three years and fines up to one crore rupees, with advertisement and financial facilitation violations attracting similar penalties. Repeat offences carry enhanced

²² *ibid*



punishment. Section 10 declares offences cognizable and non-bailable, Section 11 applies corporate liability while protecting uninvolved directors, and Section 12 allows suspension, cancellation, and monetary penalties.²³ Chapter VI strengthens enforcement: Section 14 permits blocking services despite IT Act Section 69A,²⁴ Sections 15–16 provide for investigation, search, and digital access, and Section 18 grants overriding effect, ensuring a robust architecture covering domestic and offshore platforms.

7.6 Normative Implications:

The Act reflects three priorities: ensuring national uniformity by regulating domestic and offshore platforms, protecting youth and vulnerable populations from psychological, economic, and health harms, and safeguarding financial and sovereign interests by preventing money laundering, tax evasion, and threats to integrity. It situates online gaming within broader constitutional concerns of public order, health, and national security.

8. Comparative Perspective

The United Kingdom regulates online gaming under a licensing framework through the Gambling Act 2005, which subjects online gambling operators to licensing, regulatory oversight and consumer-protection standards.²⁵ The United States follows varied State approaches, with some States legalising and licensing online betting and casinos, and others maintaining prohibitions or restrictions.²⁶ China imposes strict restrictions on gaming hours for minors, limiting under-18s to participate in online games for only a short period (e.g., one hour per day on specific days) under anti-addiction rules.²⁷ India's 2025 model reflects a cautious approach that prioritises social welfare and uniformity across the country.

9. Conclusion

Online gaming regulation represents a critical constitutional challenge in the digital era. Judicial decisions have protected skill based gaming under Article 19(1)(g), while the Promotion and Regulation of Online Gaming Act, 2025 establishes a unified national framework aimed at preventing financial harm and protecting youth. The constitutional validity

²³ <https://www.meity.gov.in/static/uploads/2025/08/dd5d971e6e54b3949f57cee34c8e5026.pdf>

²⁴ <https://indiankanon.org/doc/10190353/>

²⁵ The Gambling Act 2005 (Operating Licence Conditions) (Amendment) Regulations 2024, S.I. 2024/1234 (U.K.).

²⁶ <https://www.soft2bet.com/news/online-casino-licensing-jurisdictions-usa-canada-and-beyond#:~:text=The%20United%20States%20presents%20one,and%20Nevada%20permit%20online%20poker.>

²⁷ <https://www.livenowfox.com/news/china-1-hour-daily-limit-kids-online-games-lunar-new-year>



of the Act will depend on proportionality and legislative competence. If implemented with fairness and evidence based justification, digital regulation can strengthen legal unity and support responsible national development in a rapidly evolving technological landscape.

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