
THE ASPECTS OF ONLINE GAMING, GAMBLING/BETTING WEBSITES, AND E-SPORTS- A THOROUGH COMPARATIVE ANALYSIS

Rahee Chaudhari, LLM, Symbiosis Law School Pune

ABSTRACT

Gaming ecosystem has become one of the most important and controversial ones in the modern legal discussion, including online gaming, gambling/betting sites, and professional e-sports. This study will look at the regulatory framework, the judicial precedents and economic impacts of three different jurisdictions India, the United States and Nepal and in particular, the recently passed Promotion and Regulation of Online Gaming Bill, 2025 in India.

Research Problem: The hypocrisy of online gaming is the primary issue that needs to be resolved in terms of its enormous economic perspectives versus the reasonable fears of consumer safety, addiction, and social evil. This dichotomy generates regulatory problems in which prohibitive policies can lead to stifled innovation and economic growth and permissive policies can put consumers at financial and social risk.

Research Question: What are the differences between divergent legal and policy regimes in India and the USA and Nepal in their approach to managing the duality of online gaming industries, and might comparative lessons inform a more effective way of balancing consumer protection and the potential economic benefits?

Research Objectives:

1. Carry out an extensive comparative study of the legislative and regulatory frameworks of online gaming in the 3 jurisdictions.
2. Critically assess the Gaming Bill, 2025 in India especially its prohibitional method and its constitutional aspects.
3. Quantitatively examine the socio-economic effects and economic opportunity costs of regulatory decisions.

4. Discuss judicial cases that have been used to establish the skill-versus-chance distinction and their regulatory effects and case law.

Research Methodology:

The method used in this research is both doctrinal legal research and comparative legal research by looking at legislation, judicial decisions, regulatory provisions and economic statistics. Secondary qualitative analysis examines scholarly commentary, industry reports and government publications. Case study approach sheds more light on the practical implication by analyzing some of the landmark court rulings such as K.R. Lakshmanan v. State of Tamil Nadu, Murphy v. NCAA, and California v. Cabazon Band of Mission Indians. We shall arrive at the Economic impact assessment by an effort to comprehend the opportunity cost of the new bill.

The paper wraps up with the blanket ban approach of India being a huge deviation of the accepted judicial precedence to acknowledge skill-based gaming as a constitutionally safe commercial activity. However, the case of the federalist model used in the United States shows the extent to which complex regulatory regimes are able to deliver consumer protection and maintain economic benefits. The tourism oriented strategy of Nepal provides understanding on specific regulation that not only attains economic gain but also solves social issues. The study adds to the literature on law by offering a balanced regulatory model that acknowledges the constitutional difference between activities based on skill and chance and adopting effective consumer protection.

Introduction

The story of the development of digital gaming as a multi-billion-dollar international market can be seen as one of the most significant changes in the modern digital economy. Online gaming, wagering systems, and professional e-sports have broken down boundaries, establishing novel types of business conduct, job generation, and socialization- concerns that now dominate the agenda of legislative endeavors throughout various jurisdictions¹, but this fast expansion has also created policy dilemmas of addiction, financial loss, regulatory control, and constitutional rights- issues that are now on the front line of law-making actions in diverse jurisdictions.

¹ Nishith Desai Associates, Proposed Ban on India's Multi-Billion Dollar Gaming Industry, Aug 20, 2025.

The recent adoption of the Promotion and Regulation of Online Gaming Bill, 2025, which is a critical step in this regulatory process in India, as it introduces a ban on all real-money gambling and at the same time encourages e-sports and social gaming². This is a very contrasting approach to the more subtle systems embraced by the United States and Nepal, which begs a more fundamental question about what the optimal balance between innovation, economic development, and consumer protection is in the digital age.

The importance of this comparative analysis is not limited to the field of study. As the gaming market in India is now estimated to be USD 3.8 billion with an expected growth of USD 9.2 billion by 2029³, the regulatory decisions that are made today will have long-term effects on technological innovation and the role of India in the digital economy. Likewise, the legal precedents that have been set by judicial interpretation of these schemes will impact more general issues of constitutional rights, federal-state relations, and regulatory power over the digital realm.

Relevant Law/Treaty/Resolution/Declaration/Principle

India: Law-making System.

a. Constitutional Provisions: The constitutional basis of the regulatory field is the Seventh Schedule to the Indian Constitution regarding Betting and Gambling, which includes under the State List in Article 34 the provision that gives states the primary authority to regulate gambling⁴. This must be weighed against Article 19(1)(g) the right to practice any profession or conduct any occupation, trade, or business, and should be subject to reasonable restrictions.

b. The Promotion and Regulation of Online Gaming Bill, 2025: This historic document has put in place an all-encompassing framework through which online money games will be banned, but e-sports and social gaming will thrive⁵. The Bill creates a statutory body called the Online Gaming Authority of India (OGAI) which will have extensive powers such as blocking of platforms used to play the games, monitoring of financial transactions and imposition of penalties up to 1 crore.

² The Promotion and Regulation of Online Bill, 2025 (India)

³ India's Online Gaming Sector May Cross \$9 Billion by 2029, ECON. TIMES, Sept 25, 2025.

⁴ INDIA CONST. art. 19, cl. 1(g)

⁵ INDIA CONST. Seventh Scheule, List II, Entry 34

c. The new Promotion and Regulation of Online Gaming Act, 2025 has categorized into three groups:

1. E-Sports: These are the all the digital or electronic games where professional tournaments are hosted by formal institutes. These are recognised under the National Sports Governance Act, 2025.
2. Online Social games: These are the games played for recreation, education or skill development. No monetary transactions are involved in these games.
3. Online Money Games: All the games which are played with real money through a process of deposit and withdrawal with the hope of winning profits are banned may it be a game of chance or game of skill.

United States: Federal and State Structure.

a. The USA is a federal system with states having the chance to formulate legislations. The gambling and gaming industry issue forbids interstate gambling through wire communication facilities by the use of the wire act of 1961. In conjunction with this UIGEA of 2006 also aims at the gaming industry banning online transactions on online games⁶.

b. State Regulatory Authority: Each of the states has extensive power to control the gambling within their jurisdictions although this power is limited by the federal constitution. This has created a patch work of state laws that have different approaches as far as online gaming, sports betting and casino operations are concerned.

Nepal: Regulatory Structure

a. Constitutional Framework: the Constitution of Nepal establishes the basis upon which the gaming is regulated, as the Department of Tourism is the main regulatory body of casino activities.

b. Provisions under the Criminal Code: Section 125 of the Muluki Criminal Code (National Penal Code) 2017 frees Nepalese citizens but criminalizes gambling and betting except when

⁶ Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C 5361-5367 (2018)

licensed to foreign tourists.

c. Tourism-Directed Legislation: Casino Act 2019 and Casino Regulation 2080 BS provide exhaustive licensing provisions of the casino activity, with added capital requirements and compliance provisions that will encourage foreign investors and safeguard the domestic citizens.

Judicial Pronouncements/Legal Cases

India: Skill versus Chance: Landmark Decisions.

K.R. Lakshmanan v. State of Tamil Nadu⁷: In this case, the issue of bifurcation of game of skill and game of chance was decided. This precedent has been adopted by later judicial interpretation of gaming activities where horse racing is an exercise of skill (not due to mere chance) and upon the basis of superior knowledge, training, attention, experience and adroitness of the player (preponderance test).

State of Andhra Pradesh v. K. Satyanarayana, A.I.R. 1968 S.C. 825⁸: The case of the Supreme Court was regarding the game of Rummy. It differentiated that the game of rummy requires skill to be played, and abilities such as memory, smartness and sharpness are exercised.

Varun Gumber v. Union Territory of Chandigarh⁹: The highest court ruled that Fantasy sports required a skill to play and the entire mechanism was not a game of chance.

Gaming Federation of all India v. State of Tamil Nadu, 2023¹⁰ S.C.C. Online Mad. 4756: The decision of the Madras High Court is a very important judicial reaction to state-imposed restrictions on online gaming. In a decision that reiterated that games of rummy and poker are games of skill regardless of the medium involved, the Court struck down a blanket ban on online rummy and poker in Tamil Nadu, noting that the same brain activity would be applicable to offline versions of the games. The court shot down a blanket ban on online rummy and poker in Tamil Nadu, asserting that the same brain activity would be involved as in offline versions of these games.

⁷ K.R. Lakshmanan v. State of Tamil Nadu, (1996) 2 S.C.C. 226

⁸ State of Andhra Pradesh v. K. Satyanarayana, A.I.R. 1968 S.C. 825

⁹ Varun Gumber v. Union Territory of Chandigarh, 2017 S.C.C. Online P&H 348

¹⁰ Gaming Federation of all India v. State of Tamil Nadu, 2023 S.C.C. Online Mad. 4756

United States: Federal and State Gaming Laws.

Murphy v. National Collegiate Athletic Association¹¹: In a historic case, 6-3 decision, the Supreme Court overturned the entire American sports betting law with the stripping down of the Professional and Amateur Sports Protection Act (PASPA) which barred states but did not directly regulate the practice.

California v. Cabazon Band of Mission Indians¹²: the Court ruled that the state was not allowed to extend its gambling laws to tribal lands since the state regulations were not prohibitory but regulatory. This saw the creation of a multi-billion dollar tribal gaming industry.

United States v. DiCristina, 726 F.3d 92 (2d Cir. 2013)¹³: This Federal case gave a close judicial examination regarding the issue of whether poker is a game of chance or skill under the Illegal Gambling Business Act (IGBA). District Judge Weinstein ruled, at first instance that Texas Hold'em poker was not a game of chance, but a game of skill.

Nepal: New Gaming Jurisprudence.

Supreme Court Directive (2025): The Supreme Court in Nepal has been pressured by the court to explain why it cannot regulate online gambling, considering the dangers of lawlessness in online gambling platforms¹⁴. The court action by the Supreme Court is an indicator of increased judicial nervousness regarding the lack of regulation on online gambling, as compared to the risks of unregulated online gaming platforms.

District Court Prosecutions (2023): The district courts have been prosecuting people who are promoting illegal online betting websites, especially international ones such as 1xBet. These cases illustrate the practical issues of implementing the ban on gambling on the domestic level in the digital age.

Case Studies Resolve duality of Gaming Industry.

Case Study 1: India's Dream11:

¹¹ Murphy v. National Collegiate Athletic Association, 584 U.S. (2018)

¹² California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987)

¹³ United States v. DiCristina, 726 F.3d 92 (2d Cir. 2013)

¹⁴ *Nepal SC seeks Govt. Reply on Online Gambling failure*, SIGMA WORLD, Aug 28, 2025

Dream11 is the classic case of the dual attribute of the gaming industry in India. Borne in 2008, the platform became a unicorn company with a valuation of 8 billion dollars, becoming the first gaming unicorn in India and employing thousands of specialists, which proved the success of the industry in the field of innovation, job creation, and economic development. The platform won favourable courts in several jurisdictions. A 2019 case of the Bombay High Court, *Gurdeep Singh Sachar v. Union of India* believed that the fantasy sports format of Dream11 was not gambling but a game of skill¹⁵.

Although Dream11 has been successful in the courts, it is still experiencing regulatory challenges. The past GST audits that the company passed validating its skill-based classification have since been challenged by the new gaming taxation regulations which have already demanded retrospective taxes on these platforms, a case that the Supreme Court will decide imminently on whether such platforms as Dream11 can still operate under their current business model.

Case Study 2: Sports Betting development in the United States:

The development of sports betting in the United States shows how regulatory systems can transform to achieve economic gains and social issues by developing complex systems of regulatory controls.

The years of experience in regulated sports betting that Nevada had been experiencing gave a model of sports betting expansion after *Murphy v. NCAA*. Nevada has a well-developed system of regulations with strict licensing processes, detailed record keeping, and strong principles of consumer protection, which proves the fiscal advantages of regulated sports betting. Since 2018, the rapid growth of legal sports betting in American states has created significant economic activity. The gaming revenues will be an unprecedented 6.73 billion in May 2025 alone and endless employment. States have come up with varying regulatory strategies with some states such as New Jersey having a wide ranged system of online sports betting and some are much more stringent.

Case Study 3: Nepal model of Casino Tourism - Selective Legalization Strategy.

The gaming regulation process in Nepal illustrates that nations can gain the economic

¹⁵ *Gurdeep Singh Sachar v. Union of India*, 2019 SCC Online BOM 10263; (2019) 7 Bom CR 303;

advantage and still preserve a social layer of protection by using a legal framework that supports differentiation of national and foreign participation in the same games. The casino industry in Nepal has been able to bring in a significant level of foreign exchange and the market projections show that the industry has the potential to bring in USD 250 million in 2025 and USD 470 million in 2026.59 which will allow the country to generate employment in the hospitality sector, the gaming operations and supportive services. The regulatory framework ensures that there is a high level of distance between the tourist-based casino and the protection of the domestic population. This is because the Nepalese can be subjected to criminal punishment when they engage in gambling, whereas the foreign tourist is free to visit casino establishments which are licensed¹⁶. This is a method of enjoying economic gains and also take into consideration the social issues of the effects of gambling on local community. The proximity of the casinos to the Indian border generates a high cross-border economy.

Case Study 4: Regulatory Experiments of Tamil Nadu:

The gaming regulation in Tamil Nadu demonstrates how the state regulatory power, constitutional rights, and judicial control interact in a complex way in federal regimes. The state adopted a series of legislative frameworks that tried to accommodate the issues of gaming online but considered constitutional limitations. The Madras High Court struck down as unconstitutionally overbroad blanket prohibitions imposed by the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021¹⁷. The decisions of the Madras High Court in *Jungle Games v. Both State of Tamil Nadu* and later cases provided some significant precedent on the boundaries of state regulatory power in the context of skill-based games¹⁸.

Critical Analysis

Online Gaming Bill, 2025 is a drastic change in the approach to regulations, which should be critically analyzed in India. The methodology of the legislation indicates a few worrying trends that can compromise not only its declared purposes, but also the general constitutional values.

Constitutional and Legal anomalies.

The blanket ban on online money games proposed in the Bill is inconsistent with the findings

¹⁶ Muluki Criminal Code (National Penal Code) 2017, 125 (Nepal)

¹⁷ All India Gaming Federation v. State of Tamil Nadu, 2023 S.C.C OnLine Mad. 4756

¹⁸ Play Games 24*7 Private Limited v. State of Tamil Nadu, S.P.Nos 6784 of 2025

of established constitutional jurisprudence that games involving skill, rather than chance, are legitimate commercial activity and should be given constitutional protection¹⁹.

The fact that the legislation does not draw the line between the activity based on skill and one based on chance is a reversal of decades of court precedent. In identifying whether an activity is a game of skill, the analytical frameworks that courts have developed since then take into account the role of player knowledge, strategic choice and the repeatability of performance by the expert over time in determining whether an activity is a game of skill or not, but the categorical approach of the Bill disregards such nuanced distinctions, which is contrary to the principle in the Constitution which states that constitutional rights can not be limited in a way that is beyond what is necessary to achieve valid governmental goals.

Economic Opportunity Costs and Distortions in the marketplace.

The ban strategy has large economic opportunity costs that go way beyond industry losses. According to industry estimates, there are the possibilities of losing 200,000 jobs, foregone foreign investment of 25,000 crore and yearly loss of tax collection of 20,000 crore²⁰. These are just projections of direct effects only and do not include the effects that are related to the economy at large.

The law has a strong effect of creating a substantial market distortion by driving the users to unregulated offshore systems. Industry analysis indicates that 45 crore Indian users would shift to international services that do not offer consumer protection measures, regulatory controls and dispute resolution systems present in domestic controlled markets but removing the possibility of government to offer effective controls.

The Regulatory Effectiveness and Enforcement Problems.

The extraterritorial nature of the Bill poses some serious enforcement dilemmas that could render the Bill ineffective. Implementation of the legislation to offshore operators would demand global collaboration which might not be simple to attain unless these operators and the government make mutual agreements²¹. past experiences of blocking websites have been found

¹⁹ All India Gaming Federation and Ors. V. State of Karnataka and Ors. WP 18703/2021; Gurdeep Sinch Sachar v. UOI, 2019 S.C.C OnLine Bom. 1701

²⁰ Online Gaming Bill: Proposed Clampdown May Put 2 Lakh jobs at risk, MONEYCONTROL, Aug. 18, 2025

²¹ Government sets up online Gaming Regulator Under IT ministry, ECON. TIMES, Oct. 1 2025

to be quite useless since highly international operators can quickly create new domains and circumvention tools.

Comparative Analysis

The prohibition platform is the opposite of successful international models which implement consumer protection by regulation but not prohibition. The example of Gambling Commission in the United Kingdom illustrates how extensive regulatory supervision might restricts problem gambling, and still provides substantial taxable growth and innovation to the industry. Likewise, a number of European Union member nations have been introducing successful regulatory frameworks that safeguard consumers and at the same time generate significant taxable growth and innovation within the industry.

The American federalist system offers some of the most insightful information as to the federalism of India. Other states such as New Jersey and Pennsylvania have shown how advanced regulatory systems can extract economic benefits, by enforcing strong consumer protection programs, without destroying whole industries.

A number of alternative strategies would have resulted in the attainment of valid consumer protection goals without causing economic losses and constitutional violations. Tiered licensing might be used to identify various risk profiles, with increased requirements on more risky activities whilst allowing skill based games under proper supervision.

Improved consumer protection policies would be able to tackle the issues of addiction by the use of mandatory limits on spending, cooling off periods, identification systems of problem gambling and referral programs to treatment. Such interventions have worked in controlled markets and may be adopted without destroying whole sectors of the industry²².

Strong tax systems would yield high levels of government revenue as the systems finance consumer protection programs and regulatory oversights. The existing prohibition strategy both removes these sources of revenue and possibly adds to the expenses of enforcement and decreases the ability of the government to oversee them.

²² India's Sweeping Online Gaming Ban Puts Billions in Investor Capital at Risk, MINT, Aug. 202, 2025, <https://www.livemint.com/industry/india-real-money-gaming-bill-investors-hit-11755691447008.html>

Influence on the Innovation and Technological Development.

The banning strategy removes the possibility of India being an innovative leader in gaming technology that is progressively converging with artificial intelligence, machine learning, and blockchain technologies. Gaming platforms can also act as the test beds to new technologies that later on can be used in various industries, including financial services or healthcare.

The effect of the legislation on the rest of the startup ecosystem is not limited to the gaming companies but also to the services that support them, including payment processing companies, cybersecurity, data analytics, customer relations management companies, and so on. These complementary industries have evolved advanced skills that can be used in the gaming sector which could now be used or could be diverted to serve the international markets instead of focusing on the domestic development.

Conclusions and Recommendations

The comparative discussion on online gaming regulation in India, the United States, and Nepal indicates the multidimensional issues of the policymakers in trade-offs between economic opportunities and protection of consumers in the digital era. The action of India to institute wholesale prohibition by the Online Gaming Bill, 2025, is a noteworthy policy intervention which has expansive implications, not only in the gaming industry, but also in more general matters of constitutional rights, economic development and policy philosophy.

The prohibitory approach of India has a number of structural vices which defeat its efficiency and its constitutionality. According to the comparative overview and the shortcomings of existing policies and solutions, the proposed research would suggest a few changes in the policies of India:

Establish an effective regulatory framework where the difference between skill-based and chance-based activities that are stipulated in the constitution is observed. It is also advisable that tax authorities compulsorily request betting transactions within 24 hours and in instances of large bets, on the same day as it is done in Nevada, USA.

Develop an advanced system of licensing like the state of Nevada where strict control is exercised and day to day checking is significant.

Introduce effective consumer protection such as mandated spending limits, self-exclusion systems, problem gambling detection systems and referral to treatment programs. These are supposed to be incorporated in the regulatory mechanism but not in the form of prohibition.

Establish a complex system of taxation that will help to bring large sums of money to the government and finance the consumer protection system, the monitoring of the gambling harm prevention process, and the studies on the subject.

Promotional instead of not allowing technological innovation in the gaming sphere, because new technologies commonly have better solutions to old regulation problems. Introduce sandbox solutions, which enable a safe test of new gaming technologies with minimal regulatory conditions.

Establish bilateral and multi-lateral agreements with other gaming jurisdictions to help deal with cross-border enforcement issues and exchange best practices in regulatory management. This collaboration ought to be aimed at fighting the illegal activities and enabling legitimate international business.

Introduction of Casino regulators to ensure that the odds given in casinos and during online gaming are not fixed.

The regulation in future must focus on the evidence-based policymaking that can strike a balance between various goals by using complex regulatory frameworks instead of dichotomous bans. This strategy involves investing in regulatory capacity, stakeholder involvement and constant adjustment to technical change.

The two-sided nature of online gaming and its potential to be both economically advantageous and socially destructive requires complex levels of governance that do not reach extremes of permissive freedom and a ban on all gaming. This comparative analysis shows that properly designed regulatory frameworks could be used to meet consumer protection goals and maintain economic opportunities and constitutional rights. The current strategy adopted in India is a lost chance to establish a global standard of regulation that could be a guide to other developing economies currently experiencing the same situation. The way ahead must be the understanding that it is not the banning but the regulation that offers the best balance between the competing policy goals in the digital age governance.

Further evolution of the gaming industry as the sphere, rooted in the technological novelty and radically changing consumer preferences, will require the elasticity of regulatory procedures that will be able to adapt to the emerging issues without compromising the fundamental principles of the consumer protection, economic expansion and constitutional compliance. The lessons learnt in this comparative analysis might become the baseline to develop more efficient regulatory initiatives that would recognize the opportunities and the responsibilities that will be inseparable when regulating the digital economy.

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