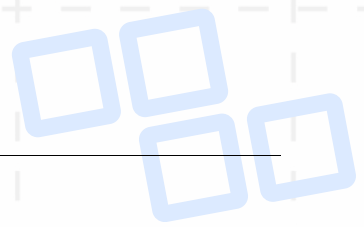

UNDERSTANDING PROFILES AND PERSPECTIVES OF ONLINE SKILL- BASED GAMERS IN INDIA (2023)





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Foreword by CJT & EPWA

"The only boundaries for you are those you place on yourself."

- Zoltan Andrejkovics

We are pleased to share the results of our study on the lives and perspectives of online gamers in India. The qualitative analysis, conducted by the Centre for Justice Through Technology (CJT), VMLS, VMRF-DU Chennai, highlights key challenges faced by skill-based online gamers,

Online skill-based gaming indeed has unending possibilities. As an up-and-coming industry, it offers a new way to foster much-needed socialisation and an ever-enticing potential for creativity; Gaming allows the human mind to explore many aspects simultaneously.

While online gaming as an industry garners increasing momentum and attention, it is essential to consider the people who are the very lifeblood of the game - the players themselves.

India is seeing focused attention to regulating online gaming. In this context, the current study attempts to understand the quintessential player through in-depth interactions. To enable growth in the industry, the perspectives of all stakeholders need to be considered. This study hence looks at the players who are at the heart of this exciting space.

This study is a first of its kind in India as it seeks to contextualise the challenges and needs of online skill-based players.

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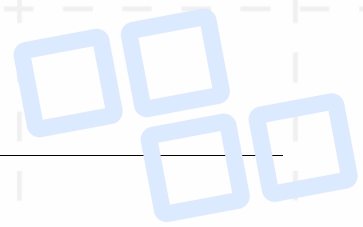


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List of Abbreviations

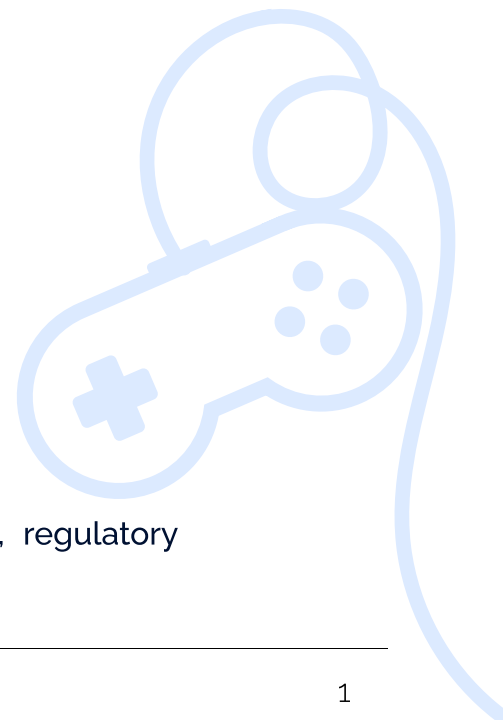
IT	Information Technology
SLP	Special Leave Petition
MeitY	Ministry of Electronics and Information Technology
MYAS	Ministry of Youth Affairs and Sports
HC	High Court
TN	Tamil Nadu
Ors	Others
OGI	Online Gaming Intermediary
GOI	Government of India
SRB	Self Regulatory Body
FY	Financial Year
COVID	Corona Virus Disease
MCQ	Multiple Choice Questions
CAGR	Compound Annual Growth Rate
INR	Indian Rupee
DOTA	Defense of the Ancients
PVR	Priya Village Roadshow
INR	Indian Rupee
FIH	Fédération Internationale de Hockey
UK	United Kingdom
PC	Personal Computer
USD	United States Dollar
AVGC	Animation, Visual Effects, Gaming and Comics
Bn	Billion
TDS	Tax Deducted at Source
GST	Goods and Services Tax



Abstract

India has been at the forefront of the rise of the online gaming industry. Online gaming has become a popular source of entertainment among young adults in the country, with some participating in games professionally. However, there is little publicly available information about online gamers in India.

*The Central Government amended the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("**IT Rules 2021**") to include guidelines for online gaming intermediaries and to protect the interests of online gamers. With this backdrop, it is critical to understand the players' perspectives in depth to design the functioning of the Self-Regulatory Bodies ("**SRB**") and create a user-first and safe gameplay environment. This research aims to analyse the status of the gaming industry and better understand relevant state and national legislation. Additionally, this study seeks to gather first-hand information that acknowledges the need of both casual and professional gamers through interviews and questionnaires. The report aims to provide insights that enable responsible industry growth for the country's citizens.*



Keywords: Skill-based games, esports, online gaming, regulatory framework, health benefits, tax implications.



I. Online Skill Gamers: Overview

In FY22, there was a presence of 507 million online gamers in India, growing at a compound annual growth rate (“**CAGR**”) of 12% from 450 million in FY21. This number is expected to reach a whopping 700 million by 2025 [1]

Out of the 507 million, the number of paying gamers stands at 120 million, growing at a CAGR of 25%, and it is predicted to accelerate over the next few years [2].

In the recent past, primarily through the COVID-19 pandemic, online gaming has played an essential role as a source of entertainment and livelihood. With its large population of young people, India has become one of the leading markets for online skill-based gaming. It is expected to grow at a CAGR of 28-30%, from \$2.8 billion in 2022 to \$5 billion in 2025 [3]. Consequently, the growing prominence of this sector has also attracted increased regulatory supervision in the last decade.

The growth of online gaming in India is a phenomenon that has caught the eye of both domestic as well as international investors, gaming companies and gamers. This has started a ripple effect of funding and the increase in the number of gaming options.

It is estimated that about INR 127 billion will be generated as revenue by the Indian online gaming industry in the next four years. More than INR 12 billion has been invested in the Indian online gaming space in the last five years, and another INR 34 billion is expected to be invested by 2025. Make in India innovators and developers are encouraged to contribute to the vision of 'Digital India'. The Government has also made strides in aligning the sector to this vision by constituting the Animation, Visuals, Gaming and Comic (“**AVGC**”) promotion task force [4].

The popularity of online gaming in India has had a domino effect on player participation and employment opportunities. Professional gaming, coaching, content creation, streaming and game designers are all seeing increased demand for professional services.

[1] Dentsu, 'Gaming Report India 2022 - For the Game' <<https://www.dentsu.com/in/en/our-news/dentsu-gaming-report-india>>

[2] 'India's Booming Gaming Industry' (India Brand Equity Foundation, November 2022) <<https://www.ibef.org/blogs/india-s-booming-gaming-industry>>

[3] Pooja Yadav, 'How rapidly is the Gaming industry growing in India' Indian Times (1 January 2023) <<https://www.indiatimes.com/explainers/news/how-rapidly-is-the-gaming-industry-growing-in-india-589059.html>>

[4] Ministry of Information & Broadcasting 'Ministry of I&B Constitutes Animation, Visual Effects, Gaming and Comics (AVGC) Promotion Task Force' (Press Information Bureau, 8 April 2022) <<https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1814698>>



During COVID-19 restrictions, traditional players of chess, poker and other casual games took to online gaming in huge numbers. Additionally, owing to its potential for future growth, Indian esports has witnessed a myriad of income generation resources, including endeavors by multiplexes like PVR and INOX to bring sports to their cinema theatres. Celebrities endorse sponsorship, and brand ambassadorship deals with esports to increase engagement. [5]

The Indian team, led by its captain Moin Ejaz won a bronze medal in the DOTA 2 Category in Commonwealth Games in 2022; in 2018, India participated in the Asian Games held in Jakarta, Indonesia. It was one of the 18 participants of the inaugural esports demonstration event, and Tirth Mehta managed to secure a bronze medal in Hearthstone. [6] By 2025, professional esports players could rise to 1.5 million, and esports viewership could increase to 85 million in India. This makes it a rapidly developing segment with cascading effects on entertainment, jobs, and the economy.

The Indian esports industry is expected to grow at a rate of 46% CAGR to hit INR 11 billion by 2025. [7]

By FY 2024, this sector will employ a workforce of approximately 2 lakh people through direct and indirect employment. The industry is currently witnessing demands of approximately 50,000 to 80,000 job roles involving developers, programmers, testers/artists and customer support. Additionally, gaming is set to create over 1 lakh job opportunities by FY '23 [8].

India currently represents only 1% of the global gaming market, falling far behind the United States and China. Nevertheless, rapid growth within the online gaming sector is changing this situation. Recognition and enormous revenue gains attract Indians to consider online gaming a serious career option.

[5] Varuni Khosla, 'Theatre Chain Inox Ties up with Esports Federation to Screen Tournaments' Live Mint (28 February 2022) <<https://www.livemint.com/companies/news/theatre-chain-inox-ties-up-with-esports-federation-to-screen-tournaments-11646045245196.html>>

[6] Aarish Ansari, 'Integration of Esports with 'Other Sports' Mutually Beneficial, Says Asian Games Medallist Tirth Mehta' Olympics: Live News & Sports (29 September 202) <<https://olympics.com/en/news/tirth-mehta-indian-esports-gamer-interview>>

[7] EY India, 'Ready. Set. Game ON' (EY Report 2021) <https://www.ey.com/en_in/news/2021/06/esports-industry-expected-to-grow-four-fold-to-inr-11-billion-by-2025>

[8] Teamlease Digital, 'Gaming Tomorrows Blockbuster' <<https://www.teamleasedigital.com/reports>>



II. Current Regulatory Framework for Online Gaming

There have been various developments in the Indian regulatory landscape for skill-based online gaming before the industry and players sought standardised regulations nationwide. Some states have tried to ban (Tamil Nadu, Karnataka, Kerala), regulate (Sikkim, Nagaland) or keep the online gaming industry unregulated (Maharashtra). In these instances, courts clarified and preserved the fundamental right of doing business in the gaming industry, including protection for online gaming under Articles 14, 19(1)(g) and 21 of the Indian Constitution, among others.

A detailed list of state-wise regulations and recent jurisprudence on online gaming are listed in Annexures I and II, respectively.

Identification of Ministries for Regulation of Online Gaming and Esports

Recently the Government of India ("GOI"), through an amendment to the Allocation of Business Rules, 1961, added 'esports for multi-sport events' and 'online gaming' under the Ministry of Youth Affairs and Sports ("MYAS") and Ministry of Electronics and Information Technology ("MeitY") respectively.

Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2021 [9], ("IT Rules 2021") and its implications for Users

The enactment of the IT Rules 2021 is a landmark policy change regarding Online Gaming in India. The IT Rules 2021 resolve three primary issues in relation to online gaming in India:

- identification of what is an online game and an online real money game,
- the roles and obligations of an "online gaming intermediary ("OGI"); and
- the incorporation of Self Regulatory Bodies ("SRB"). These SRBs shall provide a prominent verification mark to an OGI and oversee that an OGI performs its legal obligations under the IT Rules 2021.

The IT Rules 2021 define:

"online game" as a game that is offered on the internet and is accessible by a user through a computer resource or an intermediary [10]



"online real money game" as an online game where a user makes a deposit in cash or kind with the expectation of earning winnings on that deposit [11].

"winnings" means any prize, in cash or kind, which is distributed or intended to be distributed to a user of an online game based on the user's performance and per the rules of such online game.

The rules address user safety issues by introducing a robust grievance redressal mechanism. It lays provisions to set a grievance appellate committee, appoint a Grievance Redressal Officer and Compliance officers, and provide transparency for users by obligating OGLs to prominently publish information and focus on a responsible play by adding financial guard rails.

Additionally, Online gaming companies will be compelled to warn players about the dangers of playing online games and the possibility of addiction.

Online gaming companies must also obtain a prominent mark of verification from SRBs, ensuring a safety and registration mark from the SRB. This will further ensure that online gamers can identify between fair gaming and illegitimate betting or gambling platforms.



III. Aim of the Study

The result of years of judicial battles and the issuance of IT Rules 2021 now brings clarity to the operations of online gaming intermediaries.

This will only result in increased participation by users.

This research is focused on understanding real-time challenges and opportunities of online skill-based gamers in India based on in-person interviews and analysing the information in the context of extant regulatory regimes.

By examining various aspects such as social interactions, psychological well-being, and cultural influences, this study aims to contribute to the knowledge about the online gaming community in India.

Objectives:

- Examine the demographics of online gamers in India, including age, gender, and socioeconomic background.
- Explore the motivations and reasons for individuals to engage in online gaming, considering intrinsic and extrinsic factors.
- Investigate the social interactions and communities formed within the online gaming ecosystem in India, including friendships, guilds, and online competitions.
- Understand the impact of online gaming on mental health and well-being, focusing on factors such as addiction, stress, self-esteem, and potential social stigmatization.
- Explore online gamers' educational and career aspirations, including the perceived value of gaming-related skills and the potential for professional growth within the gaming industry.
- Provide recommendations and insights to inform policies and interventions to support the well-being and positive development of online gamers in India.
- Contribute to the existing body of knowledge by adding a nuanced understanding of the lives and perspectives of online gamers in the Indian context.



IV. Research Methodology

This project collected, collated, and reconciled the perspectives of skill-based online gamers on opportunities and challenges of pursuing online skill-based games in India, professionally or for leisure. The study involved empirical research using quantitative data and qualitative analysis.

- For this research, "online skill-based gaming" includes all forms of skill-based online gaming, including the first-person shooter and mobile battle arena games such as in "esports" unless stated otherwise. Similarly, "online skill-based gamer" means gamers who play across categories of online games, such as card games, fantasy sports, and casual games, unless stated otherwise.
- Data was collected through in-depth interviews with eighty-eight (88) skill-based online gamers across India.
- Information was sought through interviews based on predetermined questions on opportunities, challenges, and perspectives on skill-based online gaming.
- A cross-section of online skill-based gamers were interviewed, who play games across categories such as:
 - First-person shooter, AAA, battle royale.
 - online chess, puzzles, and other casual games
 - online fantasy sports
 - online card games
 - any other casual game played within the territory of India.
- The study sought responses from people who participated in different skill-based online gaming platforms in diverse parts of India. This was done to provide an overview of the player's perspective in the online gaming ecosystem of India. Players face unique challenges and opportunities that require regulatory attention in the present governance framework across states.



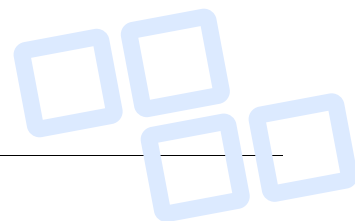
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- Interviews were based on a collection of Multiple-Choice Questions and answers with a graded scale of 1-10. Numerical results thus derived were used for statistical analysis. Subjective responses received were qualitatively analysed, considering empirical data.
 - A literature review of existing scholarship on skill-based online gaming in India was conducted. This includes the legislative framework, case laws, and relevant scholarship.

Researcher's Note: *In this study, the categorisation of online gaming enables a better understanding of the profile of players engaged therein. Such identification of games and e-sports does not affect or imply any hierarchy or ethical evaluation of the games or e-sports themselves. From a users' perspective, skill based online gaming has no differentiation regarding formats, and this study aims to provide an inclusive & collective perspective.*



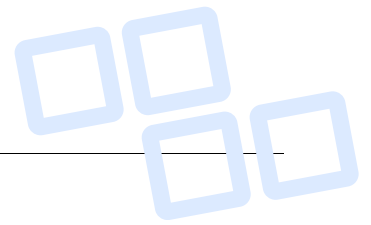
V. Highlights

- This study reviews various categories of games, with Puzzle, Board Games, and Adventure emerging as the most preferred categories across demographics and engagement levels. Single-player format is preferred by 30% of the study pool, Multiplayer by 65%, and Massively Multiplayer by 5%.
- The most common influence to start playing are friends/peer groups and family. Entertainment (41%), leisure (34%) and the pursuit of livelihood (25%) are reasons why people choose to play games online.
- (79%) invested capital in gaming (to buy PCs, consoles, mobile devices), with an average investment of INR 15,000-30,000 across platforms and devices. Half (50%) preferred mid-value mobile phones priced between INR 10,000-20,000 for gaming.
- The time spent is between 10-20 hours per week playing actively. 77% of gamers who play the maximum number of hours are aged 16-25. AAA games are more popular among younger players (16-25) and Older players (18-35 years), prefer poker, rummy, carrom, puzzles, etc.
- Essential capabilities required for online gaming include analytical skills (97%), concentration (87%), and creativity (69%). Researchers noted that skills acquired by professional online skill-based players require significant hours of dedicated practice. Subjects interviewed for the study also noted that repetition increases their likelihood of winning a game.
- Low family support is reported by 71%, with moderate backing by 17% and high support by 12% when interviewed subjects first chose to pursue online gaming. Financial support was provided by 62% of families, while 28% offered both financial and emotional support.
- Gaming as a career choice was supported by 10% of the study pool, 28% support gaming as a part-time career choice; & 62% players support online gaming for being a reason for entertainment, well-being, and leisure.
- Online gaming is a significant source of income for 39% of respondents, while 44% used it as a secondary source. Only 17% of the study pool did not use gaming as a source of livelihood.



- In the esports segment, the average contract length for professional gamers is 4-5 months for first contracts and one year for subsequent agreements.
- Sources of income for professional online skill-based gamers included gamer contracts (51%), sponsorship (14%), streaming (5%), content creation (9%), and coaching (21%).
- Income levels varied, with the lowest bracket being 14% earning INR 0.0-2.5 Lakhs INR, and the highest bracket (INR 15 Lakhs and above) by 6% of the study pool.
- Effects of lack of clear regulations and criminalisation on online gamers: 74% online gamers agreed that the lack of clear regulations affect them; this included players who play games like: fantasy sports, card games & professional esports. Out of the other game players (like puzzles, chess, arcade games) 29% felt affected.
- The study also examined the effects of existing regulations on skill-based online gaming in India. Tax implications (89%) and the game's legal status (61%) were the most significant issues affecting online gamers.





VI. Study Insights - Demographics

Age

Online gaming is gaining popularity across all age groups. However, most gamers who were part of this study are in the age group of 26-35 years; this group comprises 43% of the study pool. 16-25 years is the category with the second highest number of gamers, with 41% of the study pool.

Within this are two identifiable subsets - 16-18 years and 19-25 years. The older population of 35 and above makes up 16% of the study pool. A high presence of middle-aged gamers may be attributed to the group's increased interest in gaming and internet usage.

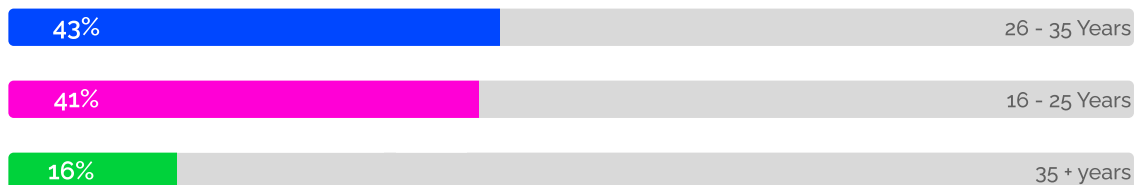


Image 1: Age of Online Skill Gamers

Researcher's Note: *Players in the age group 16-18 do not indulge in real money games except as participants of permissible tournaments where there is dedicated prize money for a tournament, as it is not permissible for online gaming intermediaries to offer online real money games to those under the age of 18.*

Gender

Amongst the study pool, gender distribution was 74% males and 26% females. There was a decline in the participation of females in the age group of 35 years and above. There was no data for people self-identifying as differently gendered across all age groups.

Geographical Distribution

Online gamers are active throughout India. Most of the subjects interviewed in the course of this study are from North (New Delhi, Rajasthan), South (Tamil Nadu, Telangana, Kerela), and West (Maharashtra, Gujarat) and East (West Bengal) with 36%, 29%, 22%, and 13% respectively.

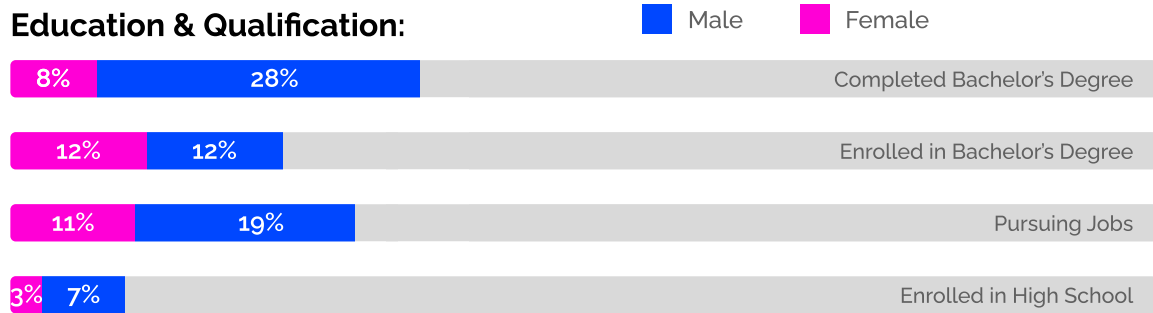


Image 2: Education Qualification of Gamers

Among the gamers enrolled in a bachelor's degree, gender distribution between males and females was reasonably equal. The participation from females gradually decreased in the working population (including master's degree holders), which accounted for 3% of the study pool.

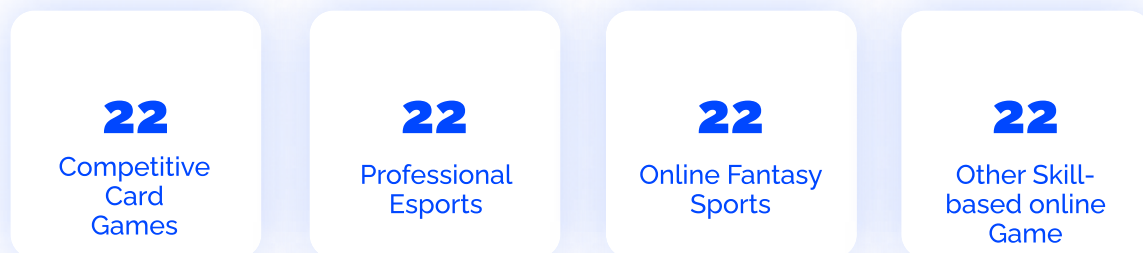
Research Data

Categories of online skill-based Games

Study pool segment: skill-based online gamers, including:

(a) competitive card game players; (b) online fantasy players; (c) esports professionals; and (d) Other skill-based casual online gamers.

22 online gamers were interviewed per category to ensure that India's entire online gamer community is well represented.





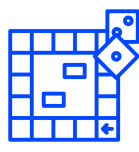
Types of Games



Puzzle



Action



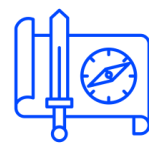
Board



Strategy



Poker



Adventure



Arcade



Virtual Sports



Racing



Fantasy Sports



AAA

Puzzle, Board Games, and Adventure are the most preferred categories across demographics and engagement levels. The majority of the female study pool prefers puzzle and board games over other categories. Whereas the majority of male gamers prefer action, sports, AAA and racing games. Adventure, fantasy, arcade, card and strategy games are commonly accessed across genders.

Player Format



Single player - played by only one person

- Preferred by 30% of the study pool
- A majority of casual gamers prefer single-player games



Multiplayer - more than one person against or in a team

- Preferred by 65% of the study pool
- A majority of esports players prefer multiplayer



Massively Multiplayer- multiple gamers in great numbers playing at the same time

- Preferred by 5% of the study pool, mainly for AAA category games

Skills required for online gaming



Image 3: Skills required to play online games.

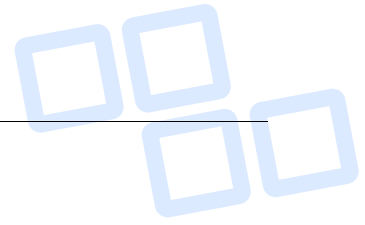
Insights: *Skills acquired by online skill-based gamers require significant dedicated hours of practice. Skills and competencies thus acquired in online gaming are also a function of time, as in traditional sports. The interviews with all the skill-based online gamers, especially esports players, indicated that repetition increased their likelihood of winning a game. The more they participated in and practiced a game, the better they got at it.*

Average time spent per week

Within the study pool, online skill-based gamer spends 10-20 hours per week actively playing. Most gamers (77%) who play the maximum number of hours are aged 16-25.

In terms of activities included in online gaming, it involves interactions with other players, chatting, and shopping for in-game items. However, it is worth noting that the activities involved in online gaming can vary greatly depending on the specific game or platform used.

Online games and AAA games are more popular among the younger generation (16-25), followed by games like fantasy sports, poker, rummy, ludo, carrom, puzzles, etc (18-35).



Devices

Mobile devices-PC-Console: The entire study pool of 88 subjects plays online skill-based games across devices and does not limit gaming activity to one device.

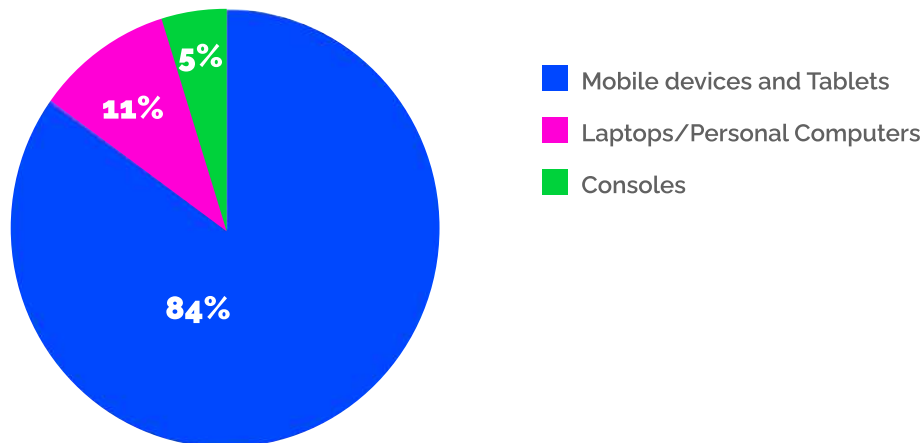


Image 4: Device preference to play online games.

Majority of male gamers prefer to play on all the devices, whereas female gamers (69% of the female study pool) prefer mobile devices.

A higher preference for mobile devices across genders can be attributed to cost-effective large-screen devices, increased compatibility of games with mobile screens, and mobility. Accessibility enabled by mobile devices was cited crucial for uniform participation by all genders in the study pool. Increased ease of playing games on mobile devices has ensured that all individuals with access to a device, irrespective of gender, can participate freely. However, in India, access to the device itself can be unequal and, in turn, lead to unequal participation by different genders. While the surveyed population did not display unequal involvement due to lack of access to resources, country-wide participation in games may vary on account of socio-politico-economic barriers to access to resources.

Across these devices, popular categories surveyed are Arcade, Puzzle, Trivia, word-based, card, online fantasy sports, and AAA games.



Preferred Category of Games

Popular game categories across various devices include Arcade, Puzzle, Trivia, word-based, card, online fantasy sports, and AAA games. On mobile devices, puzzle, action, and online pay-to-play sports games are favored by people of all ages and skill levels. Specifically, 55% of the participants in the study play puzzle games, while 40% engage in action games and online pay-to-play sports games. The second most popular choices are AAA games and arcades, enjoyed by 30% and 20% of the participants, respectively. AAA games have gained significant marketability and demand in the past decade. The survey also highlights that highly sought-after AAA games include action, sports, strategy, and role-playing games such as Call of Duty, Fortnite, and FIFA (PC-Console games).

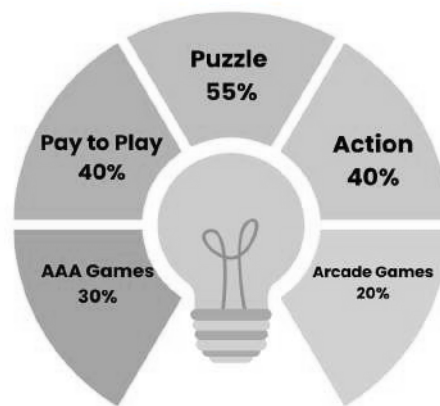


Image 5: Preferred category of games.

The above data denotes the overlaps and preferences of the study pool. Online gamers in the study pool did not hesitate from playing multiple categories of games within the online gaming ecosystem.

Capital Invested in playing these games

The money spent on playing games includes procurement of device, game downloads, in game purchases for upgraded access or top-ups for better/continued participation in games. The least amount of money spent is on the in-game Ads.

Paying Gamers- 79 %

The average investment across platforms and devices is between 15000-30000 INR.

Insights: Given the participants' preference for mobile gaming, about 50% opt for affordable mobile phones priced between 10,000 to 20,000 INR.

Non-paying Gamers- 21 %



Reasons to Indulge in Online Gaming

The most common influences for an average Indian skill-based online gamer to start playing online games are friends/peer groups and family. They are essential in determining when a person starts playing a new game.

The following are the reasons why the subjects started playing online skill-based games.

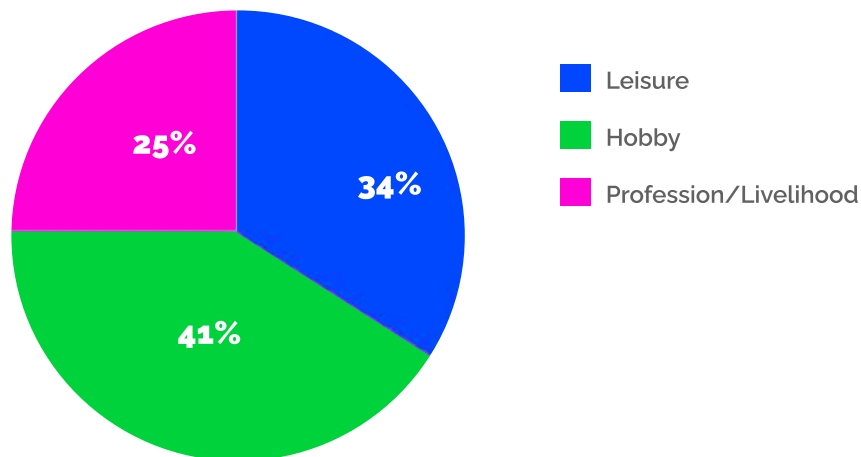


Image 6: Reasons to choose online gaming.

Skill-based online gaming is increasingly viewed as a viable livelihood based on increasing media focus and public interest. Despite being skilled and highly interested in skill-based online gaming, criminalisation, lack of support, and social pressures surrounding online gaming prevent most of the study pool from taking up such activities full-time.

Moreover, the gender division for those relying on online gaming as the primary source of income is more disparate than other categorisations. Online gaming forms a primary basis of income for individuals identifying as male, with as high as 85% of the 39% of this group (image 7). Only 26% of the study pool identified as women. This disproportionate participation can be a result of specific politico-socio-economic barriers.

These populations also reported that the masculine identities and online harassment associated with particular games influence social perception in so far as the participation of non-male genders. This further deters them from taking up online skill-based gaming as primary work.

Ironically, 85% of primary source gamers identifying as men reported facing stigma and belittlement as online gaming is not considered severe work. In conclusion, the adverse impact of patriarchal and hyper-masculine values appears detrimental to all genders.



Livelihood

Online gaming forms the primary source of income for 39% of the sample size, while 44% use it as a secondary source. Only 17% of the study pool does not use gaming as a source of livelihood.

Considering the data presented in the previous section, it is evident that there has been a notable shift in the gaming industry, with an increasing number of players utilizing online gaming as a means of livelihood. As mentioned earlier, the "Reasons to indulge in online gaming" section highlights that 25% of the study participants started playing skill-based online games for their livelihood. However, the current section reveals that the percentage of players who rely on online gaming as their primary and secondary source of income is 39% and 44%, respectively. This indicates a surge in the number of players who have taken up online gaming as a profession or for professional aspirations compared to those who started playing for other reasons and later transitioned to online gaming as a source of livelihood.

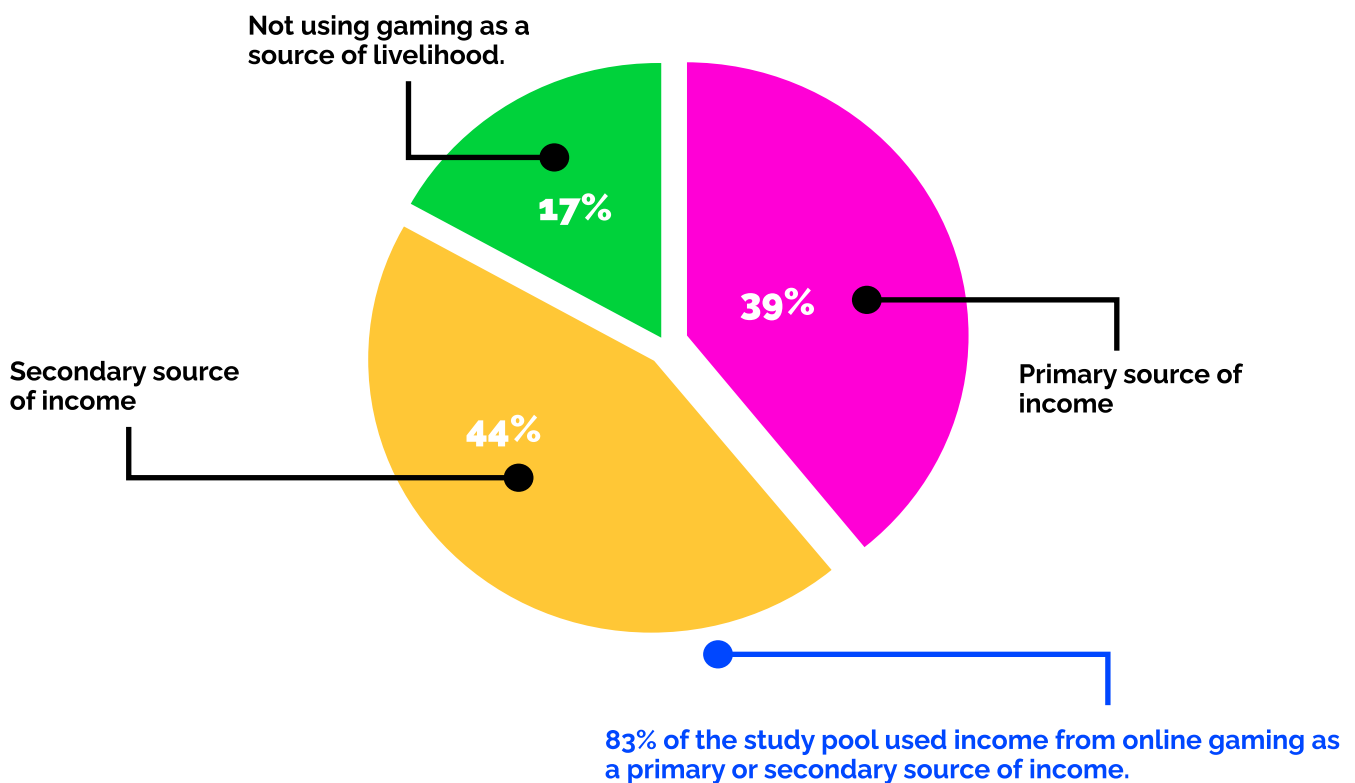


Image 7: Primary and secondary source of income.



Professional Esports Players

Average contract length: 1st contracts: 4-5 months, Subsequent contracts: 1 year.

Sources of Income:

Gamer contracts with professional teams and organizations



Sponsorships



Streaming



Content creation



Coaching



Image 8: Sources of Income.

Payment terms

Initial contracts: variable, depending upon the performance. It was also suggested that the gamers do not receive the total amount promised or earned. Subsequent contracts have fixed terms.

Income of the professional gamers (it includes income from all the sources related to gaming): In INR (Lakhs).

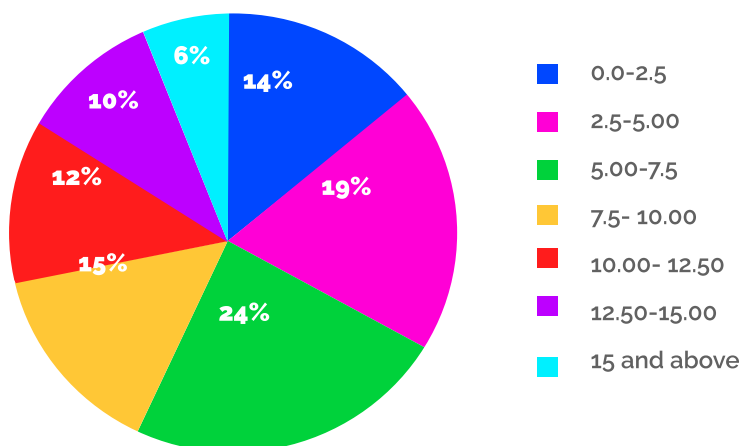


Image 9: Income of the professional gamers.



VII. Regulatory Challenges faced by Online Gamers in India

The Criminalisation of Online Gamers

In the past few years, with the advent of online gaming, multiple Indian states have tried to prohibit online gaming. While doing so, the state criminalised playing online skill games. This has happened in the laws introduced in Karnataka and, most recently, in Tamil Nadu. Tamil Nadu Government has enacted the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, pursuant to this: (a) any person playing an online gambling/online game of chance with money or other stakes shall face imprisonment of up to 3 months or with a fine up to INR 5,000 or both. (b) Those inducing people to play online gambling/games of chance shall face imprisonment of up to 1 year or a fine of up to INR 5 lakhs or both. (c) Any person who provides online gambling services or games of poker and rummy with money or other stakes shall face imprisonment for up to 3 years or with a fine of INR 10 lakhs or both. These laws put online gaming players in the same category as gamblers (in case of Rummy and Poker). Pay-to-play online skill games provide earning potential and employment to many online gamers and support adjacent professions like developers, shout casters, and gaming web-casters. It may be noted that the High Court struck down the Karnataka law, pending appeal in Supreme Court.

Absence of uniform user safety guidelines and recognition as a profession

The Madras High Court in Junglee Games India Pvt. Ltd. v. the State of Tamil Nadu^[12], the Kerala High Court in *Play Games 24 X 7 Private Limited vs the State Of Kerala*^[13] and the Karnataka High Court in the case of *All India Gaming Federation v State of Karnataka*^[14] held that online games of skill with or without stakes, are not be construed as betting or gambling; The legislative competence of the states is to make laws and regulate gambling under Entry 34 of the State List of Schedule 7 of the Constitution of India; & playing online games and sports of skills forms part of article 19 (1) (g) and Article 21 of the Constitution, which are the right to livelihood and right to privacy respectively.

[12] (2021) SCC Online Mad 2762

[13] WP (C) 7785, 7851, 7853 & 8440 of 2021

[14] (2022) SCC Online Kar 435.



Banning or restricting legitimate skill games violates Article 19(1)(g) of professional gamers and esports players. Supreme Court and various high courts have upheld legal jurisprudence over the past six decades.

While excessive regulation is usually counter-productive, especially in sunrise sectors exploring technology, regulation for online gaming has become extremely important.

When left unregulated and with no fundamental safety mechanisms for users, misconduct on platforms drives and discourages existing gamers from the online gaming network; moreover, players are left with little to option when they face misconduct on international platforms beyond the scope of the State of Jurisdiction of India.

This negativity is also a leading reason for the low representation of women in online gaming. With a lack of role models, women players struggle to connect healthily and positively with community members. Women players also face wage disparity. They are often paid much less than men^[15], with only 0.002% (USD 6,300) of the US\$235 million awarded in the famous First-Person Shooting Game DOTA 2 won by women.

A report by [Esportsearnings.com](https://www.esportsearnings.com)^[16] highlights the gender divide, with zero female players in the top 300 all-time earners. Such significant earnings disparity adversely affects women players' survival on gaming as a sole source of income. Due to low yields, women often must pursue other jobs, which prevents them from the amount of practice male gamers can put in. This, in turn, further affects their performance and hinders them from reaching higher levels in competitive and remunerative esports.^[17]

It is hoped that adequate regulation and institutionalisation of online gaming in India will benefit women and other identities. This would systematically reduce the hate inflicted upon them and protect their rights as sports players in the industry. Moreover, having government oversight also has an impact towards lowering the income gap between players.

[15] Natalia Zuo, 'Esports: Why Are There so Few Professional Women Gamers?' BBC News (7 September 2021) <<https://www.bbc.com/news/av/technology-58466374>> accessed 21 February 2023.

[16] 'Top 100 Highest Overall Earnings' (Esports Earnings) <<https://www.esportsearnings.com/players>> accessed 21 February 2023.

[17] 'The Problem with Women in Esports' (INTENTADIGITAL, 15 September 2022) <<https://intenta.digital/esports/women-in-esports/#:-:text=Lack%20of%20role%20models&text=Esports%20tournaments%20are%20generally%20open,as%20a%20viable%20career%20option>> accessed 12 February 2023.



Taxation

Direct Tax

Proposed changes to the Income Tax Act 1961 have been introduced by the Ministry of Finance through the Finance Bill 2022-2023 for online gaming, including defining it and introducing a new section for a tax deduction on winnings from July 2023.

The proposed amendments disadvantaged online gaming players, removing the base limit of INR 10,000 towards TDS and different tax rates for online and offline players. Additionally, online gamers cannot claim deductions for setting up their devices. The insertion of a new Section 194BA for winnings from online gaming provides for the deduction of TDS on net winnings. Still, players engage with different online gaming intermediaries, making it challenging to calculate their total winnings. The changes run contrary to the principles of convenience and simplification in taxation.

Furthermore, it is recommended to continue providing the relief of the base limit of INR 10,000 for the deduction of TDS on net winnings during withdrawals or adding a lower limit of INR 2,000 to the same. It would be conducive to the welfare of online gamers to be treated on par with traditional sportspersons and therefore be allowed a deduction on expenses incurred.

Goods and Services Tax

Currently, when users pay to play any game online, they are charged a service fee and a GST on that service fee at the rate of 18%.

The GST council is, however currently in discussions to introduce a new policy for the taxation of online gaming intermediaries. A speculated rate of 28% on the services provided by online gaming intermediaries on the total amount player deposits for a game is being suggested. This blurs the distinguished skill and chance games and again brings back online gaming in the same category as gambling so far as taxation is concerned.



To illustrate: A 28% GST on INR 100 of the deposit amounts to INR 22 (on a gross basis), while an 18% GST on the Gross Gaming Revenue (say 10% of the platform fee) amounts to INR 1.8. The increase in tax by 1115% may push the industry out of business.

Any increase in the rate of GST is a direct impact and burden on the users. In the current scenario, it will increase the users burden, reduce the government's overall revenue, and is at odds with the government's industry support. Online gamers may find alternative platforms which are not tax compliant and located offshore.

User Harm

The safety of online gamers, especially women and children, is a significant concern, mainly due to the absence of specific laws or regulations in India to ensure their safety. Online gaming platforms should take measures to prevent and address incidents such as harassment, bullying, and other forms of abuse, including having reporting mechanisms in place, monitoring chat and communication channels, and providing education and resources for players to stay safe.

Guidelines for setting SRBs are critical, given that India currently has around 850 registered gaming companies with an estimated 60 million users. Consequently, SRBs must conform to a standardised code of ethical conduct to ensure that every gaming format and game is evaluated using the same criteria. The SRBs must operate on uniform guidelines so that they are consistent in their approach and standards across different platforms. This will help build trust and confidence among gamers and protect them from potential harm. As the sector opens to more users, SRBs must adapt to changing threats and vulnerabilities and update their guidelines accordingly.



Privacy Concerns

Online Gamers often face the threat of breach of privacy while playing. Many games require access to microphones, some even video. In the case of real money games, this may get extended to payment details and identity.

The provisions under the IT Rules 2021 have an increased compliance burden and strict know-your-customer (KYC) standards for online gaming intermediaries. Their implementation makes all pay-to-play games impermissible under 18 while completing legitimate KYC processes to create an account and play an online game.

Online gaming intermediaries must identify and verify the identity of users before accepting cash or in-kind deposits for any permissible online real-money game. The exact customer identification and verification procedures followed by entities regulated by the Reserve Bank of India at the beginning of an account-based relationship should also be applied here.

Need for National Sports Federation

India is a country that has a significant stake in sports. Since the country's independence, it has regularly produced high-quality athletes in every sport. There are 62 nationally recognised national sports federations by the MYAS. [18] Each federation is allocated specific budgets for training athletes, funding competitions, and other activities involving the federations' respective sports. The Union Budget for the fiscal year 2023-24 saw a hike of INR 132.52 crore from last year to the Sports Authority of India (SAI). The rest of the allocation is as follows [19]:

Khelo India:	₹ 1045 crore
Sports Authority of India (SAI)	₹ 785.52 crore
National sports federations	₹ 325 crore
national service scheme	₹ 325 crore
national sports development fund	₹ 15 crore

[18] Department of Sports. 'List of Recognised National Sports Federations 2020- 2021'. (Ministry of Youth Affairs and Sports) <<https://yas.nic.in/sports/list-of-recognised-national-sports-federations-for-the-year-2020-2021>>

[19] Vishal Tiwari, 'Sports Budget 2023: Biggest Ever Allocation For Sports Sector In India's History'(Republic World, 1 February 2023) <<https://www.republicworld.com/sports-news/other-sports/sports-budget-2023-biggest-ever-allocation-for-sports-sector-in-indias-history-articleshow.html>> accessed 1 March 2023.



Hockey is considered the unofficial national game of India^[20]. Odisha in India hosted the 2023 FIH Hockey Men's World Cup in January 2023. The government spent an estimated INR 1098 crores, which is 16 times the spending in the 2018 edition. In Football, the Central Government had decided to cut significant funding to the All-India Football Federation for the upcoming seasons by 85% because of the poor performances of the Indian team. Whereas in Badminton, there has been significant growth. Emerging stars and further success in the Olympics have skyrocketed the sport's popularity in the country. The government allocated substantial funds and has spent a total of INR 67.19 crore till the year 2021-22. The government of India generally gives funds to sports depending on popularity but also changes the allocation of these funds depending on the return-on-investment National teams must perform at a level that justifies the amount they earn from the government.

There is a correlation between the government's funding and the performance of Indian sports teams in recent years.

Esports has achieved a more recognised regulatory route internationally. 46 countries have recognised esports as a regular sport, and at par, with traditional sports. These countries include Korea, Thailand, Italy, Indonesia, Sri Lanka, Pakistan, South Africa, Kazakhstan, Malaysia, and Vietnam.

However, despite the investment in this field, the interest of players and participation in online gaming events across gaming categories and winning national and international tournaments, it still needs a national sports federation for online gaming sports.

Common Legal and Regulatory issues faced by gamers

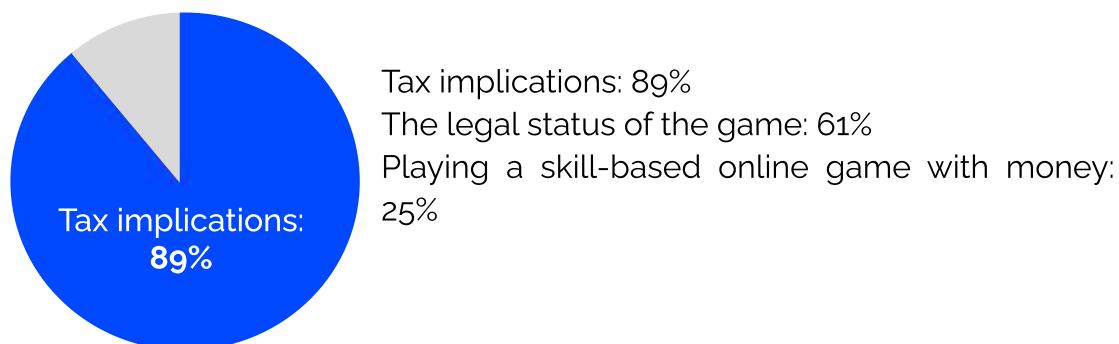


Image 11: Common regulatory issues faced by gamers.

[20] Aarish Ansari, 'Did You Know that India does Not Have a National Game'Olympics: Live Sports & News (11 September 2021) <<https://olympics.com/en/news/india-national-game-sport>>



Category of the gamers affected by the legal status of 'online gaming' in India

Online Card Games



72% of the card game study pool suggested that they were affected negatively by the existing regulations on online gaming despite of clear findings by the Supreme Court on card games such as rummy and being games of skill.

Professional Esports



61% of the esports study pool suggested that the existing regulations on online gaming impact them negatively. This includes tax implications, selections for international tournaments and the lack of a national sports federation..

Online Fantasy Sports



87% of the fantasy sports study pool suggested that they were affected negatively by the existing regulations on online gaming (this includes tax implication and legality issues).

Other Skill-based online games



29% of the skill-based online games study pool suggested that they were affected negatively by the lack of online gaming (regulations and literacy around it), despite the Supreme Court and various High Courts consistently upholding their validity.

Image 12: Impact of Regulations.

Insights: *When asked about the effects of the existing regulations, tax implications and illegality of the game in certain states were the top answers. Online pay-to-play sports players are the most impacted by regulations on online gaming, especially with tax deductible at source.*



VIII. Skill-based Online Gamers: Society & Health

Indian online gamers have time and again showcased their capabilities by being part of various global competitions and winning laurels such as their international success at the Asian Games 2018 (bronze medal in Hearthstone)^[21], international poker tournaments such as the World Poker Series, online chess tournaments, yet they continue to be stigmatised.

The lack of official recognition through a National Sports Federation and continued criminalisation by state governments has led to misconceptions. Online gaming is an exception to gambling, and yet is often confused with gambling. This is negatively perceived in society. Official recognition through regulation may qualify for a sense of confidence in the sport's credibility, also curbing the chances of unfair practices in international events such as match-fixing.

Effects of Lack of Awareness

While the government is in the process of setting up SRBs through the amendments made to the IT Rules, over the last few years, the gaming industry has very cautiously and collectively come up with self-regulation. As per industry data, about 800 gaming companies are registered in India.

Despite the self-regulation, a lack of government support and clarity on the law often leads to two hurdles in this sector: (a) criminalisation of online gamers as per respective state acts when a state decides to ban an online game and (b) difficulty tracking fly-by-night operators. A comprehensive legal system will ensure protection against these challenges.

- A lack of clarity about games of chance and skill leads to misconceptions and social stigma about online games. In a few states in India, a skilled gamer could face severe consequences, including imprisonment for playing a skill-based game online for money.
- Social acceptance of skill-based online gaming as a full-time career choice.

Family Support

As witnessed with many other non-traditional career choices, skill-based online gaming is met with resistance initially from the family and society.

[21] Jonathan Selvaraj, 'eSports and the Asian Games -The Future is Now' ESPN (31 August 2018) www.espn.in/espn/story/_/id/24541395/esports-asian-games-future-now.



However, support from family and extended social groups increase after the viability of gaming as a career choice is established, primarily through increased acceptance as a livelihood.

Low family support in the initial stages of the career



Moderate family support



High family support



Image 13: Family Support

Insights: The top-most ranked answer for the support provided by family was "investment for console/mobile/PC", and the lowest-ranked answer was "support to pursue gaming as a career." Also, family support for gaming as a career choice is a crucial factor in reducing stress and anxiety in gamers.

Social support

For the majority of the study pool, society has been indifferent towards skill-based online gaming as a career choice. Most have received negative comments from friends, relatives, and mentors.

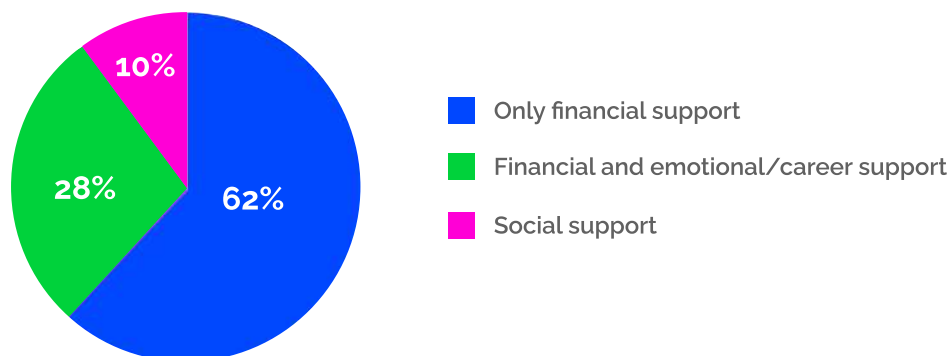


Image 14: Social Support



87% of the study pool attributes an increase in mental abilities to skill-based online Gaming. Amongst the top answers of how Gaming contributes to overall growth is "improving thinking abilities".

Interestingly, the study pool also identified some positive experiences associated with online gaming. Especially in a post-covid world, online gaming provides people with systems to connect with friends and family and make new friends. Gaming relieves stress, from solo action, arcade, or puzzle games to multiplayer role-playing games such as Call of Duty.

There is still significant stigmatisation of skill-based online gaming in the country. Nearly 79% of the study pool vis-a-vis card games and 61% of those playing fantasy sports reported facing lack of support from friends and society due to the game's regulatory status in certain states.

When a state bans online gaming, players are treated as criminals per the laws. This criminalisation may lead to a fine and even imprisonment.

Some of the health impacts reported by the study pool due to this stigmatisation include aggression, lack of managing screen time, reduced attention span, loss of interest in other activities, and social anxiety.

43% of the study pool reported an inability to manage screen time, 51% a loss of interest, and 51% an increase in social anxiety due to a lack of acceptance of professional gaming.

Insights: *These impacts were primarily echoed concerning a lack of adequate social support, an isolating experience, and no familial understanding or permission for the professional pursuit of online gaming. Skill-based online gaming offers a sense of belonging and community that is often not available to many of those who pursue such activities. Relative anonymity online allows players to develop deep bonds of companionship through shared online experiences. Subsequently, many players prefer online engagement with other players rather than offline/in-person social interaction. It is worth noting that these platforms have provided a sense of togetherness to many people, who often lack access to supportive family and social structures in their respective lives.*



The majority of the study pool agreed that playing skill-based online games contributes positively to their mental health, reduces anxiety and stress levels, and promotes social well-being.



Image 15: Effects on mental health and well-being of the study pool.



IX. Conclusion

The report's qualitative research, literature review and interviews regular players who identified as either playing casual skill games or professionally for a part of their livelihood. The perspectives of these gamers shed light on the need for government support, which currently needs improvement.

The literature review also points to the booming online skill-based gaming industry, which could benefit the country's development and generate employment. However, due to significant stigmatisation, gamers need external support to sustain themselves in this highly competitive field.

Over the years, the lack of regulations, arbitrary state regulations and multiplicity of jurisprudence over the same issue in different states has resulted in significant lack of knowledge on an online skill-gamer's perspective.

A centralised oversight of user safety and player interests could solve these problems and create uniformity in regulations. By providing mechanisms to set up SRBs, the IT Rules 2021 are a promising start to creating this structure. SRBs may play a critical role in bridging the gap between the growth of the online gaming sector and, simultaneously, protecting users' rights.

The government must take an active role in supporting professional esports and other skill gamers in international tournaments by potentially providing financial aid and recognition. The country can further support budding gamers by providing quotas for admissions in national colleges and schools, subsidies for representing the national team, and more. Support from the government not only helps athletes economically but also reduces significant social stigmatisation.

In conclusion, the findings of this study highlight the necessity for an improved comprehension of online skill-based gaming and the establishment of a centralized regulatory framework. The effective implementation of regulations, coupled with the active involvement of SRBs, can ensure the adherence to user safety guidelines and foster a responsible gaming culture. Moreover, legal literacy pertaining to digital rights in online gaming is of utmost importance in the face of an ever-expanding player base.



Schedule I- Legislative Index

Nineteen legislative documents pertain to Online Gaming, Gambling, Betting, and E-Sports activities in the country.

Odisha	Orissa Prevention of Gambling Act, 1955	<ul style="list-style-type: none">• No exemption to games of skill.• The definition of gambling and betting includes any game played for money.
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Exemption or no applicability of the Gambling Act to Games of Skill

Arunachal Pradesh	The Arunachal Pradesh Gambling (Prohibition) Act, 2012	<ul style="list-style-type: none">• No applicability to games of skill as Section 2(1)(i) defines gambling specific to wagering or betting.
Bihar, Jharkhand	Bengal Public Gambling Act, 1867	<ul style="list-style-type: none">• Section 10 exempts games of skill.
Punjab, Haryana, Manipur, Chandigarh, Himachal Pradesh	Public Gambling Act, 1867 (with minor modifications and amendments)	<ul style="list-style-type: none">• Section 18 exempts games of skill.
Goa, Daman and Diu	The Goa, Daman and Diu Public Gambling Act, 1976	<ul style="list-style-type: none">• Section 13 exempts games of skill.
Uttar Pradesh, Madhya Pradesh, Uttarakhand	Public Gambling Act, 1867	<ul style="list-style-type: none">• Section 12 exempts games of skill

Maharashtra and Gujarat	The Bombay Prevention Gambling Act 1887 and (Gujarat Amendment) Act, 1964	<ul style="list-style-type: none"> • Section 13 exempts games of skill
Delhi	The Delhi Public Gambling Act, 1955	<ul style="list-style-type: none"> • Section 13 exempts games of skill
Jammu and Kashmir	The Jammu and Kashmir Public Gambling Act, 1920	<ul style="list-style-type: none"> • Section 12 exempts games of skill
Karnataka	Karnataka Police Act, 1963	<ul style="list-style-type: none"> • Section 176 exempts games of skill • Karnataka Police (Amendment) Act, 2021 was introduced that prohibited even games of skill when played for money. • The Amendment Act was challenged and struck down by the Karnataka High Court^[22]. • SLP against the judgement of the Karnataka High Court is pending before the Supreme Court.
Kerala	Kerala Gaming Act, 1960	<ul style="list-style-type: none"> • Section 14 exempts games of skill • Section 14A empowers the Government to exempt certain games as games of skill if they follow conditions.



		<ul style="list-style-type: none">• Pursuant to Section 14A, the Government of Kerala issued a notification dated 23.02.2021, whereby online rummy, when played for stakes was not exempted.• This notification was challenged and struck down by the Kerala High Court^[23].
Rajasthan	The Rajasthan Public Gambling Ordinance, 1949	<ul style="list-style-type: none">• Section 12 exempts games of skill.• Recently, the Rajasthan government introduced Rajasthan Virtual Online Sports (Regulation) Bill, 2022, to provide a regulatory framework for fantasy sports and esports in India, such as licensing formats and formulating a self-regulatory organisation and the gaming commission, and penalties for violations.
Tripura	Tripura Gambling Act, 1926 (Based on the Public Gambling Act, 1867)	<ul style="list-style-type: none">• Section 11 exempts games of skill
West Bengal	The West Bengal Gambling and Prize Competitions Act, 1957 (Based on the Public Gambling Act, 1867)	<ul style="list-style-type: none">• Section 12 exempts games of skill



Mizoram	The Public Gambling (Extension to Mizo District) Act, 1962	<ul style="list-style-type: none">• Section 12 exempts games of skill
Regulates Games of skill		
Tamil Nadu	The Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 (approved on 7th April 2023)	<ul style="list-style-type: none">• The act prohibits online gambling and playing games of chance with money or other stakes, including Rummy and Poker.• The act also prohibits all forms of advertisements that promote or induce a person to play any game for money or other stakes involving online gambling or an online game of chance, including Rummy or Poker.• It has been challenged in the Madras HC for its constitutionality as it bans multiple online skill games, disregarding the established legal jurisprudence.
Sikkim	Sikkim Online Gaming (Regulation) Act, 2008	<ul style="list-style-type: none">• Regulates online games of skill and chance through a licensing framework.
Nagaland	Nagaland Prohibition of Gambling and Promotion and Regulation of Gaming Act, 2016	<ul style="list-style-type: none">• Regulates online games of skill and online games of chance through a licensing framework.



Chhattisgarh	Chhattisgarh Gambling Prohibition Act, 2022	<ul style="list-style-type: none">• Regulates gambling and online gambling in the state. Will only apply to games of "chance and luck", leaving games of "mere skill" outside its purview
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MeitY has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2021^[24]. This Central legislation squarely puts online games of skills within the powers of the Centre.

Despite this, some current state-centric laws have exceeded their jurisdiction of gambling and betting to online games, thereby prohibiting even games of skill (like in Odisha and very recently, Tamil Nadu, which has prohibited games of skill, or in Karnataka in 2021 where the state banned all skill games including chess).

The applicability of state laws for games approved under the IT Rules 2021 is a matter for future consideration. However, various courts have clarified that the state powers under Entry 34 of List II of the Constitution are limited to betting and gambling.

These bans almost always criminalise the online gamer, so it is becoming essential to understand online gaming laws from a user perspective.

[24] The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules (India 2021) <<https://www.meity.gov.in/writereaddata/files/Revised-IT-Rules-2021-proposed-amended.pdf>>



Schedule II: Precedence on the Gaming Laws of India

Gaming and gambling jurisprudence in India was first introduced with the landmark case of *State of Bombay v. Chamarbaugwala*^[25], where the Hon'ble Supreme Court held that 'competition which substantially depends on skill is not gambling. *Gaming is the act or practice of gambling on a game of chance. It is staking on chance, where chance is the controlling factor.* From there, the term 'Game of Skills' was differentiated from 'Game of Chance'^[26]. This was also referenced in *K.R. Lakshmanan v. State of Tamil Nadu*^[27], where a game of skill was termed as "*the element of chance necessarily cannot be eliminated – is one in which success depends principally upon the superior knowledge, training, attention, experience, and adroitness of the player*".

Important Case Laws

Gambling: In *KR Lakshman's*^[28] case, the court took note of the definition of the word "gambling" contained in the new Encyclopedia Britannica as: "*The betting or staking of something of value, with the consciousness of risk and hope of gain on the outcome of a game, a contest, or an uncertain event, the result of which may be determined by chance or accident, or have an unexpected result by reason of the better's miscalculations*", as well as the definition contained in Black's Law Dictionary: "*Gambling involves not only chance, but a hope of gaining something beyond the amount played. Gambling consists of consideration, an element of chance, and a reward.*"

Game of Chance (beyond the scope of the present study): A game of chance is a game where the outcome is determined mainly by random chance rather than skill or strategy. In other words, players have little control over the result, and the outcome is unpredictable. These games typically involve wagering money or other valuable items with the possibility of winning a prize or losing the bet. They are violative of Section 30 of the Indian Contract Act.

Game of Skill (within the scope of the present study): In a game of skill, the outcome is determined mainly by mental or physical skill rather than pure chance. Such games are a means to explore one's capabilities. These games encourage players to look at, understand, and experience things.

[25] *State of Bombay v. Chamarbaugwala*, (1957) SCR 874.

[26] *Ibid*

[27] *K.R. Lakshmanan v. State of Tamil Nadu* WP(C) No. 665 of 1986.

[28] *Ibid*



All games meeting the requirements set by the Supreme Court for a game of skill are automatically categorised as such, and no game-specific assessment is required. Given the continuous legal challenges, the following judgments have strengthened this position. In the case of *All India Gaming Federation v State of Karnataka*^[29], HC opined that "the games of chance do not enjoy any constitutional protection since they constitute as criminal acts. However, games of skill by their very nature stand on a different footing." The Hon'ble High Court of Karnataka concluded that "as long as an online game's primary requirements are skill, judgement, or knowledge, it does not count as "gambling" whether there are stakes involved or not".

Poker and Rummy Games

Indian courts have followed a similar opinion while tackling issues concerning the validity of the poker game. In *Dominance Games Private Limited v. State of Gujarat*^[30], the High Court of Gujarat stated that the history of poker suggests that it was a game of chance. This case has been appealed for and is currently in the courts for adjudication.

In the case of the *Indian Poker Association v. State of West Bengal*,^[31] the Calcutta HC observed that poker is not included in gaming or gambling under the provisions of the *West Bengal Gambling and Prize Competitions Act, 1957*.

Furthermore, in the judgment of *Chitravathi Sports Club v. Govt. of Karnataka*^[32], the Karnataka HC declared a list of games as a 'game of skill' and asked authorities not to interfere with such games. Poker was listed as one of the games in the said judgment. Similarly, In *R Shankar Creation Association v. State of Karnataka*^[33], poker, among other chess games, darts and carrom, was classified as a game of skill and not a game of chance. In *Junglee Games India Private Limited v. State of Tamil Nadu*^[34], the Madras High Court overturned the TN Amendment Act's blanket prohibition on games of skill. It clarified that online games of skill like rummy and poker could be classified as betting or gambling. Rummy and poker are games of skill, not chance, according to the Madras High Court, which further emphasised that there is no difference between playing card games or board games like chess or Scrabble physically (offline) or online (online). However, *The Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act 2022* prohibits online gambling and playing any online games of chance with money or other stakes, including Rummy and Poker, which have been declared as games of skill.

[29] All India Gaming Federation v. State of Karnataka, No. 18729/2021, W.P. No. 18732/2021, W.P. decision dated 14 February 2022.

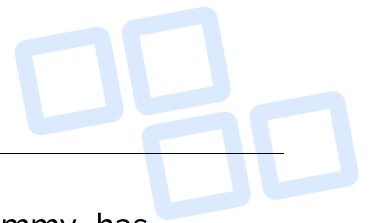
[30] Dominance Games Private Limited v. State of Gujarat (2018) 1 GLR 801.

[31] Indian Poker Association v. State of West Bengal WP 13728 of 2015.

[32] Chitravathi Sports Club v. Govt. of Karnataka, WP 23926 of 2012.

[33] R Shankar Creation Association v. State of Karnataka, WP 16622 of 2012, decision dated 4 June 2012.

[34] Junglee Games India Private Limited v. State of Tamil Nadu, WP 18022 of 2020, decision dated 3 August 2021.



As discussed in the *Junglee Games case*^[35], the game of rummy has received favorable judgments from Indian courts. The Hon'ble Supreme Court in *State of Andhra Pradesh v. K. Satyanarayana and Others*^[36] held that rummy is preponderantly a game of skill, not chance. It further observed that "it requires a certain amount of skill because the fall of the cards has to be memorised and the building up of rummy requires considerable skill in holding and discarding cards." The expression 'mere skill' means the presence of skill of a substantial degree. This principle was further followed in the case of *K.R. Lakshmanan v. State of Tamil Nadu & Ors.*^[37] In the most recent case, in September 2021, the Kerala High Court pronounced a judgement to strike down a notification on the ban of online rummy in the case of *Head Digital Works Private Limited v. State of Kerala*^[38]. The court held that a ban on online rummy is arbitrary, illegal, and violative of the fundamental rights guaranteed to the petitioner under Articles 14 and 19(1) (g) of the Constitution of India and hence not enforceable. The court also held that the state must not differentiate between the online and offline rummy format.

Fantasy Sports

With the emergence of technology, there has been a boom in fantasy sports-based apps. Fantasy sport is played online, where participants assemble virtual teams composed of proxies of real players of a professional sport. These teams compete based on the statistical performance of those players in real-life games. A person plays against other managers and their teams. Everybody manages a roster by adding, dropping, trading, and selling players to keep winning.

In Indian jurisprudence, in the case of *Varun Gumber v. Union Territory of Chandigarh and Others*^[39] (Dream 11 Judgment), the High Court of Punjab and Haryana stated that, as with any game of skill, more significant experience and training in such games are required where a user with greater insight into strategies for success and a better understanding of the game's dynamics and operational constraints, and in itself heightens and attunes the element and exhibition of skill on the user's part and thereby has a material influence on generating a successful winning outcome in favour of the user. Accordingly, the High Court of Punjab and Haryana held that fantasy sports did not amount to gambling and Dream 11 was conducting a business activity protected under Article 19(1)(g) of the Constitution [40].

[35] Ibid

[36] *State of Andhra Pradesh v. K. Satyanarayana and Ors.*, AIR 1968 SC 825.

[37] Ibid 8.

[38] *Head Digital Works Private Limited v. State of Kerala WPC*(C) 7785, 7851, 7853 & 8440 of 2021.

[39] *Varun Gumber v. Union Territory of Chandigarh and Ors.*, WP (C) 7559 of 2017.

[40] The Constitution of India, Art. 19 (1)(g)

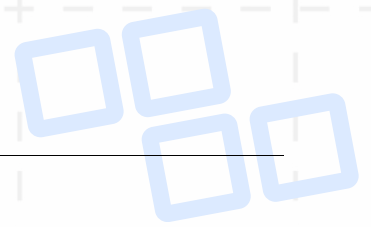


Furthermore, in cases like *Gurdeep Singh Sachar v. Union of India*^[41] and *Ravindra Singh Chaudhary v. Union of India*^[42], Bombay and Rajasthan High Court took similar stances to the High Court of Punjab and Haryana. The Courts observed that unlike betting, winning or losing in fantasy sports was not dependent on any team winning or losing in the real world. The Courts opined that the result of a fantasy game depends on the skill of a participant and not sheer chance and winning or losing of virtual teams created by the participant, and is also independent of the outcome of the game or event in the real world.

Multiple Supreme Court orders have held that fantasy sports are a game of skill not amounting to gambling, betting, or wagering, and the issue is no longer *res integra*.

[41] *Gurdeep Singh Sachar v. Union of India*, PIL (Cr) 16 of 2019.

[42] *Ravindra Singh Chaudhary v. Union of India*, SLP Diary No 43346/2019.



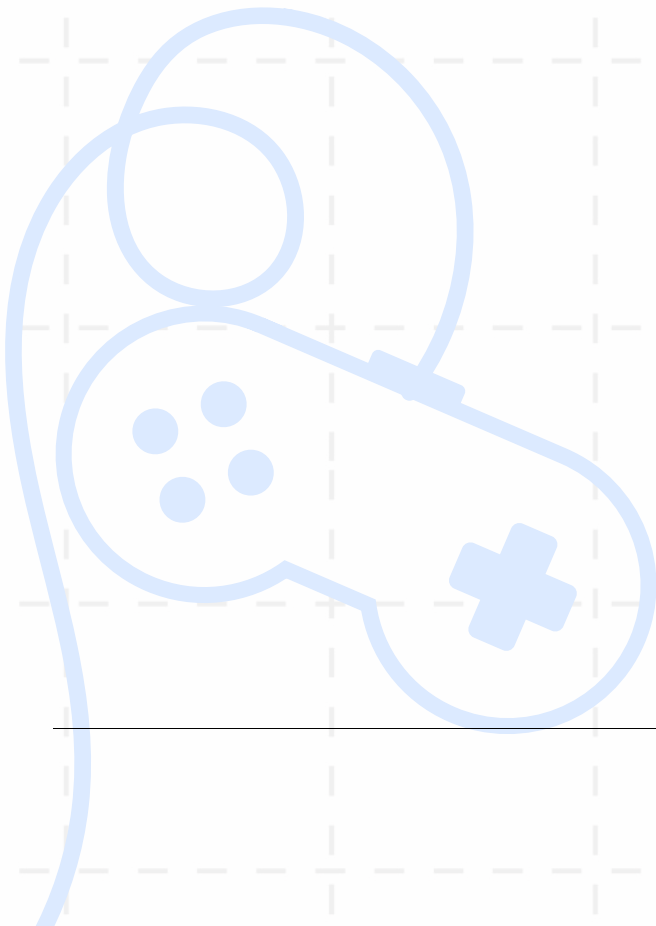
About EPWA

Esports Players Welfare Association (EPWA) has a membership base of over 13,000 e-gamers and online players across various categories of online games. The association is committed to promoting and protecting the rights and interests of all skill-based online gamers in India through research and representation.

EPWA has played a crucial role in representing the rights of online gamers in various state and central stakeholder discussions with the government. The association has successfully advocated for the needs and concerns of skill-based online gamers, including issues related to player safety, decriminalisation of skill-based online gamers, and taxation implications and policies.

EPWA provides its members various services, including legal support, health and wellness programs, and community building through its dedicated team of experienced professionals. The association aims to empower online gamers by creating a safe and supportive online game-play environment.

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About Centre for Justice Through Technology

The Centre for Justice Through Technology (CJT) is focused on training students to leverage modern technology, including information and communication technology, to solve everyday problems challenging our justice delivery systems. The term "justice system" encompasses a wide range of issues, such as access to courts, legal literacy, awareness and access to constitutionally guaranteed rights, interaction with local government, and citizenship rights, all within the context of social justice, economic justice, and political justice.

The CJT strives to be an incubator and idea generator of Social Justice Innovation, consistent with the larger mission of VMLS and VMRF-DU. Justice Innovation is the effort to create better and more effective tools, products, processes, services, technologies, and ideas related to justice delivery that enable markets, governments, and civil society to realize their full potential.

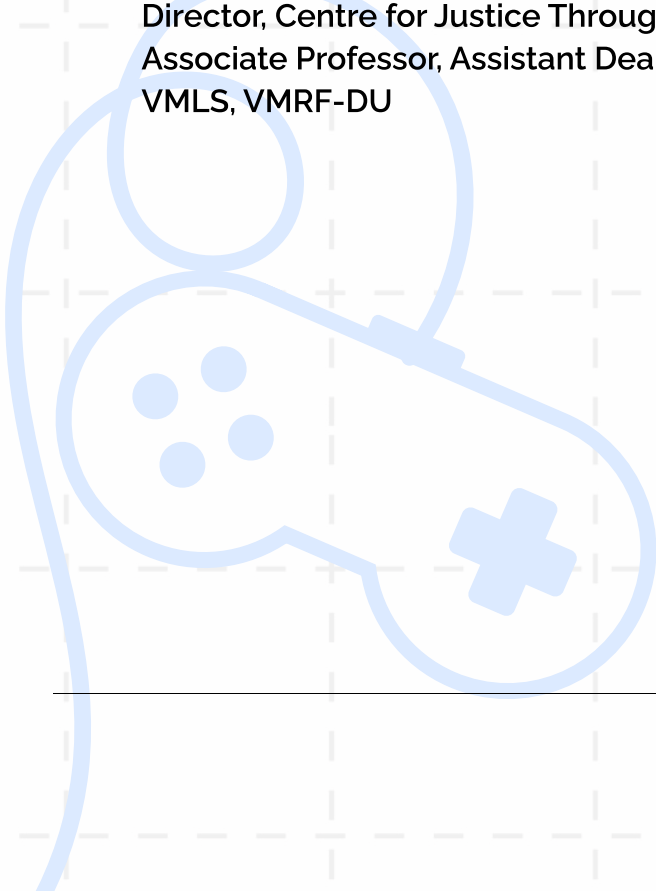
As a unique Centre, CJT helps identify, understand, and address the challenges of the 21st century. It serves as a platform for students to develop innovative solutions to the problems facing our justice systems, thereby contributing to the larger goal of creating a more just and equitable society.

Ms Suhasini Rao

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DISCLAIMER

The report has been drafted by conducting primary and secondary research. Primary research includes interviews with more than eighty (88) self-identified online skill-based gamers, including professional esports players from various demographics in India.

The information published by this report is general and is not intended to address any specific online skill-based gamer.

The study of online games of chance is beyond the scope of this research.

The Centre for Justice Through Technology provides no guarantee of the reliability of the information provided by the study pool on the publication date.

The answers, feedback and opinions of the subjects interviewed during this study do not represent the opinions or views of the Centre for Justice Through Technology.

The report includes updates in law and regulations until 10th May 2023. Any developments or changes that occurred after this date are not reflected in the report.

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