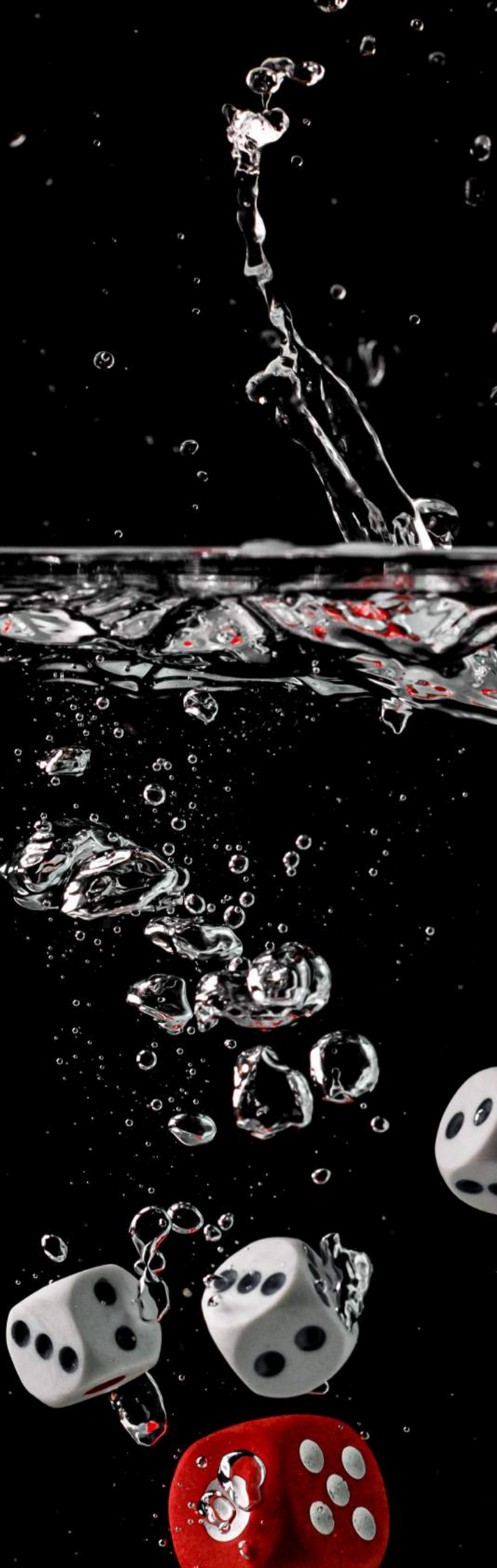


The Game of Ludo

LAW, REGULATION & POLICY REPORT



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Preface

I. The present report comprises a study of the skill-chance conundrum regarding the board game Ludo. Given the legal and conceptual complexities of the classification of games of skill from games of chance in the Indian legislation as well as under the Indian jurisprudence, the present study aims to demonstrably ascertain the plausible impacts of Indian laws and regulations on the game of Ludo.

II. The mandate for the present report comprises three aspects:

- a. To prepare a detailed white paper/report on role of luck, skill and strategy in Ludo and the implications of laws and regulations on gaming prevalent in India.
- b. To evaluate the oversight and regulation ecosystem in India on gaming in India and the applicability of the same on Ludo as a game in the context of the eminent inter-se dominances of characteristics of playing strategies, skill aptitudes, luck and chance in the game of Ludo.
- c. To review the global jurisprudence on the subject and summarize the findings in the context of existing and emerging jurisprudence in India.



III. To successfully deliver upon the above, the present Report has been structured in three Parts, and the road-map for the same has been presented herein below:

- a. The introductory Part A of the report undertakes to establish the history of traditional board games, evolution of Ludo, and variants of Ludo available in India and globally;
- b. Part B to the Report undertakes to comprehend the Role of Chance, Skill and Strategy in Ludo and the legal implications thereof by presenting an overview of the relevant legal framework by firstly identifying the statutory and legislative aspects of the applicable law and regulations governing betting & gambling in India (in Chapter 1); subsequently the jurisprudential principles pertaining to the difference between games of skill and games of chance (in Chapter 2); pursuant where to the role of luck, role of skill, and role of strategy have been identified in the game of Ludo and amply established how Ludo is a game of skill (in Chapter 3).
- c. Part C to the present Report proceeds to determine the relevant global jurisprudence on the subject to enable a comprehensive understanding of the legal principles that may impact the game of Ludo and the projectable findings on emerging jurisprudence in India.
- d. Part D of the Report revolves around the Oversight & Regulatory Eco-System in India including exploring the possible rules and regulations and licensing requirements for successfully establishing the gaming setup for playing such a game.
- e. Lastly, Part E concludes with the findings of the present report and identifies coherent strategies to mitigate regulatory implications needed to be undertaken to avoid any unfavorable action against the entity setting up Ludo-based gaming ventures in India.

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PART A

**HISTORY OF
TRADITIONAL BOARD GAMES,
EVOLUTION OF LUDO
AND VARIANTS OF LUDO AVAILABLE IN
INDIA AND GLOBALLY**



A BRIEF HISTORY OF TRADITIONAL INDIAN BOARD GAMES

1. Board games have been a significant part of Indian culture since ancient times. Such games have appeared to be engraved in rock and stone in different parts of the world. Notes on incised boards were sometimes included in the works of scholars undertaking historical and ethnographical studies on Indian board games already in the beginning of the 20th century. Particularly large numbers of engraved board diagrams appeared at the site of the ancient Indian cities like Vijayanagara[1].
2. Board games like pachisi, chaturanga, backgammon and gyanchaupar were important to various cultures throughout India. In fact, Indian board games were in high demand in other imperial courts of the world too. Leading academics and experts are of the opinion that the dice discovered from the archaeological sites in Mohenjo-Daro were quite possibly used in conjunction with board games[2].
3. In dice connected with chaturanga similar marks are to be used for indicating the numbers 1, 2, 3, 4, 5, and 6. Traces of game boards on some of the basement slabs and ghats steps were found both in religious and secular buildings at Nagarjuna konda in Andhra Pradesh. Many game boards have also been discovered at bathing and burning-ghat areas, and connected to a four-spoked stupa.
4. Most of the game boards discovered here consists of eight rows having eight squares in each row. Evidently this is meant for playing Ashtāpada. Ashtāpada or Ashtapadi is an Indian board game which predates Chess and was mentioned on the list of games that Gautama Buddha would not play. Chaturanga, which could be played on the same board, appeared sometime around the 6th Century AD in India; and it could be played by two to four participants.
5. Various academic sources throw light on the fact that different variants of board games or so-called traditional games existed during the time-period specified in Ramayana and Mahabharata. Particularly, the term mahsa indicates reliance on employment of dice or the so-called dice like device in games. It was not until the latter period that board games evolved as we identify them today.

[1] Elke Rogersdotter, What's Left Of Games Are Boards Alone: On Form, Incidence, And Variability Of Engraved Game Boards At Vijayanagara, (C. Ad 1350-1565), (ISSN 2347 – 5463 Heritage: Journal of Multidisciplinary Studies in Archaeology 3: 2015).

[2] Panduranga Bhatta, Antiquity Of Indian Board Games. A New Approach(1995).



1.1 CHESS

- It was in the 6th Century AD that the Gupta Empire, which ruled the lands around Patliputra, just before its disintegration as a result of inept rule and foreign attacks, introduced the world to the game of Chess. Although the game of Chess travelled to various parts of the globe and acquired various names, various sources cite its origin way back to India.
- Despite similarities to Chess as played today, Chaturanga^[1] was a very different game. For starters, there were four armies and the expectation was that players would work with an ally to defeat the other two players before turning on each other. There were also restrictions on how pieces captured each other that echoed India's caste system. Lowly infantry was barred from taking higher ranking pieces and kings could never be killed, only taken captive. Players who captured an enemy king could even do prisoner swaps to get their rajas back in the game. Another big difference between Chess and Chaturanga was the added element of chance. Unlike modern Chess, in Chaturanga players would flung dice-like throwing sticks into the air to find out which piece they could move. Chaturanga was also usually played for stakes
- For the religious, Chaturanga's status as a gambling game was a problem. The Hindu legal text The Laws of Manu opposed playing games with dice, and while its rules were treated as ideals to live by rather than laws to be enforced, it did deter the devout from playing. The Buddhists were more disapproving still and urged their followers to refrain from even learning the game. Under religious pressure, people got rid of the game's dice and gave the choice of which piece to move to the players.
- Over the years more refinements followed. The war elephants and ships swapped their movement patterns and, most significantly of all, Chaturanga became a two-player game. This last shift saw the once-allied armies of the original version unite into a single sixteen-piece force. To avoid having two rajas per army, one was demoted to a minister, an advisor to the raja who was also limited to moving one square diagonally. And with only two rajas in play, the prisoner swaps no longer made sense, but since killing rajas was frowned upon Chaturanga became a game about trapping – checkmating – the opposing ship.

[1] Tristan Donovan, *A Short History Of Board Games* (Atlantic Books London).

- After travelling through a mix of trade and war from India to Middle-East, Chess finally reached Europe in 711 AD when an Arab-Muslim army crossed the Strait of Gibraltar, landed in Spain, and set about conquering the Iberian Peninsula. Within nine years the invaders had taken control of most of Iberia, which they declared was now the Emirate of Al-Andalus.
- The Europeans wanted more action, more speed and more aggression. And since Chess was a folk game – something passed down through the generations – and owned by nobody at all, just like traditional songs, people began trying to ‘fix’ it. Some enlarged the board, but that only made playing the game take even longer. Others rearranged the starting locations of each piece in the hope that would help. For a while dice Chess, which was both faster and easier to play, thrived, but it was perceived that the randomness robbed the game of its strategic depth. And once the novelty wore off, the dice joined the elephants, shahs and ships on the scrapheap of Chess for a second time.
- Europe’s Chess experiments also led to the creation of checkered boards that made it easier to follow the game and, around 1100 AD, someone in southern France repurposed the disc-like counters from backgammon and a chessboard to invent a new game that after several centuries of refinement became draughts. The game of Chess has been played in various regions of India having different names[1] such as Shatranj[2], Shaturanga[3], and Pallanguli[4].

[1] R.C Bell, Board and Table Games from Many Civilizations (Copyright 1960, 1969 by Oxford University Press, ©1979 by R. C. Bell).

[2] There is a tradition which places the introduction of Shatranj from India into Persia during the reign of Naushirawan (A.D. 531-79). When and where Shatranj entered Europe is uncertain but claims have been made for at least three routes. In the seventh century A.D. the Saracens captured North Africa, and they crossed the Straits of Gibraltar and settled in Andalusia early in the eighth. They probably took Chess with them and the game may have spread from Spain to the court of Charlemagne in France about A.D. 760.

[3] About the fifth century A.D. the Ashtapada board was used for a new game, Shaturanga, which was a miniature battle between four armies each under the control of a Rajah and each containing four corps: Infantry, Cavalry, Elephants, and Boatmen. In this game two players were loosely allied against two opponents. One of the early Sanskrit writings, the Bhavishya Purana, contains the tale of a prince who lost all his possessions including his wife, playing at dice. He went to an old friend to learn the mysteries of Shaturanga hoping to win his fortune back. The pawns in Shaturanga represent the infantry, a ship the boatmen, a horse the cavalry, an elephant the elephants, and a human figure the rajah. Each piece had a different type of move.

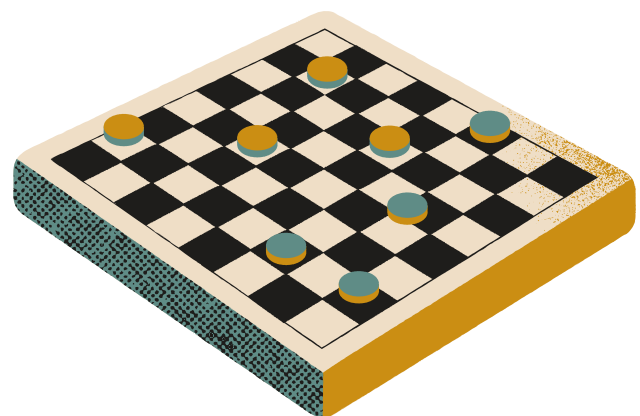
[4] R.C Bell, Board and Table Games from Many Civilizations (Copyright 1960, 1969 by Oxford University Press, ©1979 by R. C. Bell.)

1.2 CHEQUERED GAME OF LIFE (Modern day variant of Moksha Patamu)[1]

- In ancient morality-minded games like Moksha Patamu moved with the times. In this game, which drew on Jain and Hindu beliefs, players would travel the board towards spiritual liberation. Along the way they would climb ladders that represented virtues such as knowledge and generosity and slide down snakes that represented vices such as anger, vanity, lust and killing. With its oversupply of snakes compared to ladders, Moksha Patamu's message was that the path of goodness is harder than the path of evil. But when Moksha Patamu reached Victorian Britain in the 1890s as Snakes and Ladders, the vices and virtues had been removed and there were as many ladders as snakes, resulting in a game sans ideological influence; and when the game eventually reached the United States in 1934 as Chutes and Ladders, even the snakes were removed.

1.3 THE SIXTEEN SOLDIERS (VARIANT OF CHECKERS)

- This game is played in Ceylon and parts of India. The players move alternately and all pieces can move in any direction along the lines of the board, orthogonally or diagonally, to the next point of intersection.
- Much like the modern-day game of Checkers, a capture is made by jumping over an enemy piece on to a vacant point beyond and any number of pieces may be captured in one move by a series of jumps, similar to the move of a king in English draughts. The player capturing all the opposing soldiers wins. As a variant each player may have seven more men placed on the points of the triangle on his left. Three empty points remain along the central transverse line.

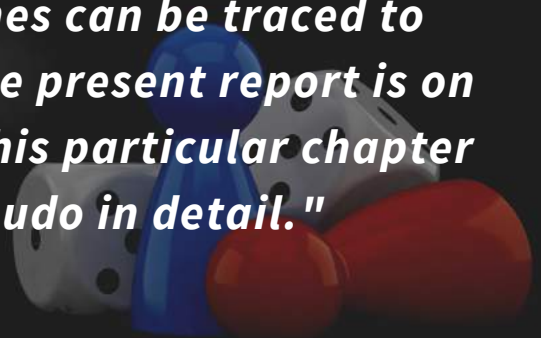


[1] R.C Bell, Board and Table Games from Many Civilizations (Copyright 1960, 1969 by Oxford University Press, ©1979 by R. C. Bell.).

1.4 RACE GAMES

- One of the most prevalent race games having its origin in India was an unnamed single track board game[1]. The board for this game constituted a single row of squares, laid out according to six courses forming a zigzag-like track with cross-cut squares at each bend. One of the courses was duplicated; it served as the starting line and players entered from opposite ends. This race game was played with three pieces each, and by the throwing of six cowries the goal was to be the first to go out of the last square (Parker 1982 [1909]). Marin (1942), who also illustrates a variant of the board that is made up of pits, emphasizes some typical components in this type of games, such as the marking out of places of safety and the possibility of sending back the opponent's pieces to the start[2].
- Oblong board: Several variants of race games on oblong boards can be found. One example is Thablaata from Karnataka. It is played on the points of a board of 3 x 11 squares. The game also includes capturing the opponent's pieces and may be associated with the family of tab games. These are also termed Running-Fight games, combining elements of race games and war games. While mainly played in Northern Africa, the Middle East, and on the Indian subcontinent, games of this group are also found for example in Scandinavia.

"As deciphered from the above presentation on history of board games in India, the origins of numerous modern-day games can be traced to India. Since, the focus of the present report is on Ludo the next segment of this particular chapter discusses the evolution of Ludo in detail."



[1] ElkeRogersdotter, What's Left Of Games Are Boards Alone: On Form, Incidence, And Variability Of Engraved Game Boards At Vijayanagara (C. Ad 1350-1565), (ISSN 2347 – 5463 Heritage: Journal of Multidisciplinary Studies in Archaeology 3: 2015).

[2] Ibid

CHAPTER II: EVOLUTION OF LUDO

LUDO IN ANCIENT INDIA

- Ludo is a very old game with various names such as Chausar, Chaupar, Hapur or Chaupad, Pachisi.
- Ludo made an appearance in the great Mahabharata as well. It featured prominently as the game of choice between the Pandavas and the Kauravas leading to Draupadi's 'cheerharan', which eventually led to the war of Kurukshetra. While it is known that this event was like the final nail to the coffin that led to the war of Kurukshetra, what's less known is that the dice used in this disreputable game had some magical powers. They would only obey Shakuni's command. Some versions of Mahabharat explain that the dice were made from the cursed bones of family members of Shakuni. Hence the dice would only obey Shakuni's command. So, winning the game was a piece of cake for Shakuni and the Kauravas[1].



1.1 Earlier form of Ludo: Cloth vis-à-vis Board

- It must be noted that throughout the early age, the game used to be played on a surface made from cloth and not the board. The concept of board was developed much later when this game was introduced internationally. The reference to board games in India comes from Harappan destinations and returns right to 2500 BCE. Dice and counters have been found in Harappan destinations like Harappa, Mohenjo-Daro and Lothal. A while later Gautama Buddha, while setting out the guidelines of the rules of the monastic order in the content Vinayapitaka, cautions against playing a board game called Ashtapada. The soonest visual reference to the game is alleviation in perhaps the most decorated caverns of Ellora – cavern number 29. Worked between the sixth and eighth hundred years CE, one mass of the cave is etched with figures of Shiva and Parvati, shown appreciating a round of Chaupar[2].

[1] Byjus, History of Ludo, available at <https://blog.byjus.com/the-learning-tree/knowledge-vine/history-of-Ludo/>(Last accessed on 20 April 2021).

[2] Ludo's Indian Roots (2021). Available at: <https://www.livehistoryindia.com/story/snapshot-histories/Ludos-indian-roots/> (Last accessed on 20 April 2021)

- It was the creative mind of Mughals, which introduced the playing of the game on board. Since, in early form starting from the Mahabharat era, the game was played on a piece of cloth, but Emperor Akbar used board to play the game. Notwithstanding, the most definite depiction of the game and how it was played comes from Mughal Emperor Akbar's biographer, Abul Fazl (1552-1602). In the Ain – I – Akbari Fazl comments, "From seasons of old, individuals of Hindustan have been partial to this game." He proceeds to layout the standards and playing cycle of Chaupar, making it the primary portrayal of the game accessible to the rest of India[1].
- From various accounts of historians, it can be discerned that Akbar was fixated on Chaupar, to such an extent that in the patio of his royal residence in Fatehpur Sikri, red and white square flagstones were spread out to address a heavenly life-size board, where he and his subjects often indulged in the game. Slaves were utilized as playing pieces and they were moved by the players' directions and commands. This goliath Chaupar board can even be seen today at Fatehpur Sikri[2].
- The French author M L Rousselet, in his book "India and its Native Princes", describes how Akbar used to play this game:

"The game of Pachisi was played by Akbar in a truly regal manner. The Court itself, divided into red and white squares, being the board, and an enormous stone raised on four feet, representing the central point. It was here that Akbar and his courtiers played this game; sixteen young slaves from the harem wearing the players' colors, represented the pieces, and moved to the squares according to the throw of the dice. It is said that the Emperor took such a fancy to playing the game on this grand scale that he had a court for pachisi constructed in all his palaces, and traces of such are still visible at Agra and Allahabad."[3]

- Karuna Sharma of Georgia State University, in her examination paper named 'A Visit to the Mughal Harem: Lives of Royal Women' noticed that there was additionally a political side to these board games. Since the game required knowledge and ability, the Emperor attempted to gauge the gifts of men through the game. The fame of Chaupar stretched out to the women of the regal group of concubines just as the Rajput courts. Various seventeenth-eighteenth century Pahari canvases from Himachal portray people playing Chaupar. In 2016, one such Pahari painting of a couple playing Chaupar got an astounding Rs 93 lakh at a sale at Christie's.[4]

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- [1] How Ludo has endured through the ages (2021) Available at: <https://www.theweek.in/leisure/society/2020/05/14/how-Ludo-has-endured-through-the-ages.html> (Last accessed on 20 April 2021)
- [2] Ludo's Indian Roots (2021). Available at: <https://www.livehistoryindia.com/story/snapshot-histories/Ludos-indian-roots/> (Last accessed on 20 April 2021)
- [3] Courier, M. (2018) How Pachisi, An Indian Board Game, Became Ludo, Madras Courier, Available at: <https://madrascourier.com/insight/how-pachisi-an-indian-board-game-became-Ludo/>(Last accessed on 20 April 2021).
- [4] Expedition Magazine, Penn Museum (2021) Available at: <https://www.penn.museum/sites/expedition/the-indian-games-of-pachisi-chaupar-and-chausar/>(Last accessed on 20 April 2021)

1.2 Rules of Chaupar/Chausar

The game of Chaupar or Chausar was the widely known variant which was played in the Pre-Colonial Era in India. The game also served as the founding stone in the subsequently developed versions of the game, the most popular among them being “Ludo”. The Rules of this game are as follows:

- Three long dice are used instead of cowry shells. Each long die has 1 and 6 on opposing faces and 2 and 5 (or sometimes 3 and 4) on the other faces.
- There are no graces or extra throws.
- Castle squares are absent or, if played upon a Chaupar board, are ignored.
- Pieces start on specific squares instead of the Charkoni although captured pieces are returned to the Charkoni. To prepare to start the game, position each set of four pieces on squares 6, 7, 23 and 24 from the Charkoni.
- Pieces can be melded together to form a “super-piece”. If two pieces of the same shade land on the same space, then those pieces are lumped together and thereafter play as a single piece with double the power. Triple and quadruple pieces can be formed in the same way. Conglomerate pieces move using the throw of the dice as if they were a single piece. However, a double piece can only be captured by a double, triple or quadruple piece, a triple piece is only vulnerable to a triple or quadruple piece and a quadruple piece can only be captured by another quadruple piece.
- Each throw can be split into its constituent parts and shared across the pieces. For instance, if a 1, 2 and 6 is thrown, a player might choose to move one piece 9 squares or three pieces 1, 2 and 6 squares respectively. It would also be possible to move piece 2 squares to form a double piece and then move the double piece 7 further squares, for instance.
- A throw cannot be passed in whole or part unless a player cannot move.
- An exact throw is required for a piece to get home.
- All the blacks must be got home before a yellow piece can go home. All the reds must be got home before a green piece can go home.

However, the rules mentioned above are restricted to the game of Chaupar or Chausar and were later simplified in order to make it more playable for adults and children alike. The subsequent variation of Chaupar or Chausar follows a different set of rules and the same rules vary from region to region. Some countries follow the traditional one dice rule whereas some countries such as Colombia have incorporated two dice and the game is playable by up to 6 players as opposed to the traditional Indian two or four player versions.

PACHISI (MODERN DAY LUDO)

1. The game of Ludo is often compared to one of the most played ancient Indian board games of India by the name of Pachisi.
2. The highborn round of Chaupar additionally had its variant for the everyday person. It was called Pachisi, which means 25 in Hindi, which was the most elevated score that can be accomplished in this game. Rather than long dice, it was played with koris or cowrie shells, as a substitute for cash.
3. With the approach of colonial controls, the round of Chaupar or Pachisi ventured to the far corners of the planet. Around 1860, the English firm of Jaques and Son created a game called 'Patchesi'. In 1874, E.G. Selchow and Co in the United States reserved a game called 'Parcheesi', which proceeded to turn into America's longest-selling board game until the arrival of Monopoly in 1935. It was sold in the USA and Europe with the marking 'The Game of India', to make it sound considerably more outlandish.[1]
4. On August 29, 1891, Alfred Collier applied for a patent in England, guaranteeing that a board game, which he named Royal Ludo, was his innovation. The Patent with the number 14636, affirmed following a couple of months, on October 31, 1891, conceded him full business rights and banished others from recreating the game.[2] From that point forward, 'Collier Ludo boards' and its 'rules flyer' were sold across the world with the patent number recorded on them.
5. In 1896, Patchesi[3] was changed to a more straightforward game called 'Ludo' which in Latin signifies 'I Play'. The eight squares were decreased to four and it was transformed into a kids' down. By the 1900s, the adaptations of the game turned out to be very well known in France and Germany. Incidentally, Ludo in its present structure went to the place that is known for its beginning, India just in 1950 where it stays mainstream right up till today.
6. This board is linked to a characteristic and traditional game of India, Pachisi/Chaupat. It constitutes a race game for two to four players (if the four-armed type of board is used, which is the most common one), having four pieces each. Using two four-sided long dice, the players move their pieces round the board and then up the middle lane with the goal of reaching the central square. In Karnataka, the game is known as Pagadeata and played on two versions of boards. In one version, each arm consists of 3 x 8 squares, of which six are cross-cut; in the other, each arm has 3 x 7 squares and three cross-marks.

[1] Parcheesi (2011), Available at: <https://thebiggamehunter.com/games-one-by-one/parcheesi/>, (Last accessed on 20 April 2021)

[2] Royal Ludo Patent (2021), Available at: <https://www.gamesboard.org.uk/cgi-pub/gardpub.cgi?table=registrations&pk=1224&command=view#:-:text=14636%20was%20applied%20for%20by,for%20Royal%20Ludo%2C%20not%20Ludo>, (Last accessed on 20 April 2021).

[3] R.C Bell, Board and Table Games from Many Civilizations (Copyright 1960, 1969 by Oxford University Press, ©1979 by R. C. Bell.)

2.1 Rules of Pachisi

- Traces of the royal boards used to play Pachisi during Mughal Rule are still visible at Agra and Allahabad. Modern boards are usually made of cloth, cut into the shape of a cross, and then divided into squares by embroidery. The marked squares represent castles in which the pieces are free from capture. A castle occupied by a player's piece is open to his partner's pieces, but closed to the enemy. Each player has four bee-hive shaped wooden pieces marked with his own colors. Six cowrie shells are used as dice.[1]
- The game is played by four players each having four pieces. The players sitting opposite each other are partners, and yellow and black play against red and green. Each piece enters the game from the central space known in Hindustani as the Char-koni, and travels down the middle of his own limb and then round the board, returning up the middle of his own limb back to the Char-koni. On arriving back at the middle row of their own limb the pieces are turned on their sides to show that they have completed the circuit. They can only reach home by an exact throw. The moves are controlled by six cowries.[2]
- It is however important to note that the rules of Chaupar and the later developed game of Pachisi are a somewhat different than each other and the rules that are followed in Pachisi have been adopted in the currently played game of "Ludo". In the game of Parcheesi only one dice is used where as in the game of Chaupar, 3 cowry shells were used. In the game of Parcheesi there are no as such rules of double and triple power when two or three tokens conglomerate together but in the game of chaupar if two or three same color tokens conglomerate then they will have special powers, ex: if 2 tokens conglomerate then it can only be killed by similar Conglomerate tokens. In chaupar to start the game, position each set of four pieces on squares 6, 7, 23 and 24 from the Charkoni where as in Parcheesi game can only be started with a roll of six.

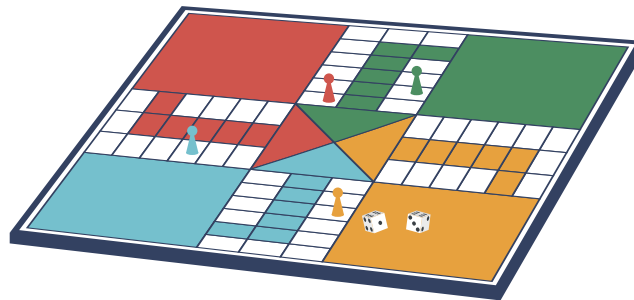


[1] Page 9, R.C Bell, Board and Table Games from Many Civilizations (Copyright 1960, 1969 by Oxford University Press, ©1979 by R. C. Bell.)

[2] Page 11, R.C Bell, Board and Table Games from Many Civilizations (Copyright 1960, 1969 by Oxford University Press, ©1979 by R. C. Bell.)

LUDO VARIANTS IN INDIA

The game of Ludo was earlier played only physically and was confined to a particular location. With the advancement of technology, many gaming companies have developed the board games into virtual board game to make it more accessible for players. The game of Ludo can now be played virtually as well as physically. However, it is pertinent to note that Ludo game which is played physically has very mild variations in terms of rules in the demographic setup of India, but Ludo is played differently in certain regions of the world as discussed in the present chapter.



Non-Money Ludo Games

- The concept of Ludo has further been used by the gaming industries to attract users through creation of certain variations of the game “Ludo” which involve real money elements while most don’t.
- It is pertinent to note that “Ludo” games which do not involve real money are available on Google Play Store and on iOS platforms and can be downloaded from there and played via handheld smartphones/tablets. However, the games involving use of real money are available at their specific websites and can be accessed from there only.

Basic Rules

- Ludo is played between 2 to 6 players subject to the respective variant of the game.
- Each player has 4 tokens. Whoever gets all four tokens to the home first is the winner. The game can continue to crown a second-place winner, third place winner and the last finisher.
- Token can only move out of the player rolls a six on the dice.
- When a player rolls a six, he gets another turn to roll dice.
- If a player rolls continues 6 thrice, his/her third turn is skipped.
- If the token crosses the finish line, the player gets another turn to roll dice.
- If a token captures another token, the player gets another turn to roll dice.
- There are safe places in the game irrespective of color.
- The token must move out and travel around the board to make it to home.

A) Ludo King[1]

1. Ludo King (a non-money variant of Ludo offered online) was launched in the year 2016 on Google Play store and on IOS platform. Looking at the popularity of the game several other companies also launched their respective Ludo-based virtual games. The revenue of Ludo King has clocked around 20 million dollars in the year 2020.[2]
2. Following the footsteps of Ludo king many other companies developed their versions of the game, while keeping the rules similar to the original game.

2.1 Classic Version

Same as above mentioned rules are followed.

2.2 Quick mode

Same above-mentioned rules are followed but with a twist that if a player takes one token to home, he/she will win the game.

2.3 Play with friends

In this variant of rules are similar to the above-mentioned rules but allow 6 players in the game.

2.4 Popular

In this variant of the game player has an undo feature. Player can tap on the undo button to re-roll the dice to undo the previous dice roll.

- B)** There are some other games following the footsteps of Ludo King and the underlying gaming concept of Ludo King. These games such as **Ludo All Star**[3] and **Ludo**[4] are also non-money-based variants of the traditional Ludo game and do not involve the element of playing for real money. The rules applicable to Ludo King (as mentioned above) are also applicable to these variants and this is the case for most of the online available Ludo variants. The rules of Ludo King are not independently developed which are being adopted by most companies for their respective games but these rules have also been gathered and derived from the Indian origin game of 'Pachisi' and have been further made less complicated for the ease of players.

[1] LudoKing, Available at https://play.google.com/store/apps/details?id=com.Ludo.king&hl=en_IN&gl=US, (Last accessed on 20 April 2021).

[2] Saumya Tiwari, Ludo king's parent company clocks \$20 million in revenue in 2020, Livemint, Available at: <https://www.livemint.com/companies/start-ups/Ludo-king-s-parent-company-clocks-20-million-in-revenue-in-2020-11610112124290.html>, (Last accessed on 20 April 2021)

[3] Ludostar, Available at https://play.google.com/store/apps/details?id=com.yoozoogames.Ludogameallstar&hl=en_IN&gl=US, (Last accessed on 20 April 2021).

[4] Ludo, Available at https://play.google.com/store/apps/details?id=io.yarsa.games.Ludo&hl=en_IN&gl=US, (Last accessed on 20 April 2021).

Real Money Ludo Game

- After the success of virtual Ludo games several companies started offering virtual Ludo games with real money gameplay. LudoPe was one of the first websites which allows the users to participate with real money. At the cost of reiteration, these games are not available on Google Play store or on IOS platform and can only be accessed or download from their respective websites.
- In LudoPe[1] the rules of the game are simple. Lead your soldier to your dwellings. The common Ludo rules apply and additional rule or add-on is that a player can win or lose real money.
- Further, there are other Ludo games also available which are allowing users to play with real money by placing the bet on the outcome of the game, which in most cases is mutually decided by the players involved before the game begins.
- Some of these games involving real money element are -
 - Ludo Fantasy[2]
 - Paytm First Games[3]
 - Ludo Money[4]
 - Play Ludo Empire[5]
 - LudoSkill[6]
 - Ludo Battle[7]
- It is imperative to note that the rules applicable to the above-mentioned money-based variants of Ludo game are the same rules which are applicable to traditional Ludo formats available in India (also discussed above). Further, in most of the money-based Ludo games, an option of Deposit/Withdrawal[8] of money has also been provided to facilitate ease of transactions for the users.
- Besides the above-mentioned rules, the following additional rules are applicable particularly in Ludo Skill (a money-based Ludo variant), which are as follows:
 - **Game Toss:** This is to decide the playing order of the players in the game. Each player is allowed to roll the dice once. The player who rolls the highest number will play first. Accordingly, the players who rolled the subsequent numbers from the highest to lowest will play in that respective order. If two players roll the same number, then the player who rolled it first will be allowed to play first. For example, if player A rolled a 5 first and player C rolled the same number 5, then Player A will play the game first and Player C will be second in turn.

[1] LudoPe, Available at <https://Ludope.com/>, (Last accessed on 20 April 2021).

[2] Ludo Fantasy, Available at <https://Ludofantasy.com/how-to-play.html>, (Last accessed on 20 April 2021).

[3] Paytm First Game, Available at <https://paytmfirstgames.com/Ludo-games>, (Last accessed on 20 April 2021).

[4] Ludo Money, Available at <https://Ludomoney.com/how-to-play.php>, (Last accessed on 20 April 2021).

[5] Ludo Empire, Available at <https://Ludoempire.com/how-to-play.html>, (Last accessed on 20 April 2021).

[6] Ludo Skill, Available at <http://www.Ludoskill.com/>, (Last accessed on 20 April 2021).

[7] Ludo Battle, Available at <https://www.Ludobattle.com/index.php>, (Last accessed on 20 April 2021).

[8] Available at <https://www.Ludobattle.com/termandcondition.php>, (Last accessed on 20 April 2021)

- **Random Booster:** After the toss round, the system will roll the dice once randomly. The number rolled which is called as Random Booster, is applicable for all the players and is saved for future use during the game. This number can be used as a booster to move any of the tokens at any given point during the game. However, this can be used only once throughout the game by each player. For instance, if the system rolled a 4, then each player can use this number (4 in this case) as a booster once during his/her entire game. Dice will be rolled again if the system rolls a 6.
- **Choice Booster:** Each player is allowed to choose one number before the start of the actual game. This one number can be used as booster only once, to move any of their tokens at any point as per player's choice during the game.
- When the actual game starts, the seating arrangement of the players in the virtual game room is as per the order decided in the toss round.
- Since in India games involving an element of chance and real money are often termed as gambling games and are prohibited, most of these games have in their Terms and Conditions[1] explicitly mentioned that their particular Ludo variant is a game of skill and not a game of chance, as the legislature has provided an exception of games involving skill when played with money. The aspects concerning the predominance of skill v. chance in the game of Ludo are discussed in the next Part of this Report.



[1] Ludope, <https://Ludope.com/terms.html>; <https://Ludope.com/terms.html> (Last accessed on 19 April 2021).

LUDO VARIANTS IN OTHER COUNTRIES/REGIONS OF THE WORLD



2.1 Parcheesi in North America[1]

Components

1. Parcheesi is typically played with two dice, four pawns per player and a board with a track around the outside, four corner spaces and four "home paths" leading to a central end space. The most popular Parcheesi boards in America have 68 spaces around the edge of the board, 12 of which are darkened "safe spaces" where a piece cannot be captured. The goal of the game is to move all of one's pawns "home" to the center space.
2. A player's pieces enter play on the darkened space to the left of the player's "nest", or starting area, and continue counter-clockwise around the board until they reach the home path directly in front of the player.

[1] Parcheesi - cross and circle board game - Rules and strategy of tabletop games (2021), Available at: <http://gambiter.com/tabletop/Parcheesi.html> (Last accessed on 19 April 2021).

Gameplay

1. The game is played best with four players. Fewer players create dead areas on the playing board.
2. Each player rolls a single die to determine player order. The player with the highest roll goes first and the order of players' turns move to the next player on the current player's left.
3. Each player positions their four single-colored pawns in the round starting nest of the same color.
4. Pawns move from the nest to the same-colored starting space to the left of the nest, by the movement rules in the following section.
5. A turn ends when the next player rolls the dice with the consent of the current player. Any rewards not taken are lost.
6. A player rolls the dice and must use the top die pip values shown to move their pieces around the board.
7. Only pawns not in the nest may move forward on the board.
8. Pawns may only leave the nest with a roll of a five on a single die or the sum of the dice. A double five can be used to move two pawns from the nest simultaneously.
9. A player may move one or two pawns with a single roll of the dice (with the exception when doubles are rolled), one by the number rolled on one or both dice and another by the number rolled on the other die. The roll and turn are forfeited if no move can be made.
10. All die rolls must be taken and may not be voluntarily forfeited by a player.
11. If either of two rolls must be forfeited, the player must forfeit the lower number.
12. All die moves must be taken before the application of any extra rewards for sending an opponent to their nest or moving a pawn to its home position.
13. A roll of doubles merits the player a total of fourteen spaces, which may be taken by a single pawn as a whole or split between two, three, or four pawns by the numbers of the top die faces and opposite die faces. The total of the pips on opposite sides of a die always adds to seven.
14. If the player rolls three doubles in a single turn, the third double is forfeited and the most advanced pawn, unless it is in the protected home row, must be sent back to the nest.
15. A blockade is formed when two pawns of a single player occupy the same space. No pawn of any player may move through a blockade, including pawns of the blockade owner. Blockade pawns may not be moved forward in unison with the roll of a double. Another player's pawn cannot land in a space occupied by a blockade. Local rules may limit the number of turns that a blockade can stay in place.
16. A pawn is not required to enter the home row and can pass the row and start another circuit of the board voluntarily or as the result of requirement of the use of the total die roll.

Rewards of extra moves:

1. The reward for sending an opponent's piece to the nest is a free move of twenty spaces that may not be split between pawns.
2. The reward for landing a pawn in the home space is a free move of ten spaces that may not be split between pawns.

Winning the game:

1. Moving all four pawns to the home position wins the game.
2. Pawns may only be moved to the home position with an exact application of the total roll, the value on a single die, or the complete application of a reward.



2.2 Parchís in Spain[1]

1. Parchís is a race game played mainly in Spain and it is also based on the ancient Indian game of Pachisi. It is similar to the form of Ludo played in the United Kingdom, namely Uckers a naval form of Ludo, and Parcheesi from the United States of America.
2. A Parchís board has a pattern on it in the shape of a cross, each arm being divided into three adjacent columns of eight spaces (squares or circles or other shapes).
3. The middle spaces form the home column for each color and cannot be landed upon by other colors. Sometimes, certain spaces on the track are distinguished by a different color or marking. These are 'safe spaces'.
4. The middle of the cross is the 'home' area and is usually divided into 4 home triangles, one of each color. At each corner, separate to the main circuit are large colored circles (or squares) where the pieces are placed at the start of the game.
5. Each player chooses one of the colors and places the 4 pieces of that color in the corresponding corner area.

[1] Rules and instructions for the games of Parchis (2021), Available at: <https://www.mastersofgames.com/rules/parchis-rules-instructions-guide.htm> (Last accessed on 19 April 2021).

Gameplay

1. Players take turns in a clockwise order; highest throw of the die starts. In each turn, a single die is thrown to determine movement.
2. When a 5 is thrown it is compulsory for a piece to be moved from the starting corner area to the first space, if possible - and this is the only way to move a piece onto the track. Counters begin their circuit on the appropriately colored place on the circuit adjacent to their beginning area.
3. Pieces move in the direction indicated by the numbers on the board or otherwise an anti-clockwise direction around the track given by the number thrown. Multiple pieces of the same color can occupy the same space. If no piece can legally move according to the number thrown, play passes to the next player.
4. If a piece lands on a piece of a different color that is not on a safe space, the piece jumped upon is captured and returned to its starting corner area. The capturing player can then immediately move any piece on the track 20 spaces forward, if possible.
5. When a piece lands on the home area, another piece can immediately be moved forward 10 spaces, if possible.



Safe Spaces

1. If a piece occupies a safe space, a piece of another color cannot be moved onto that space.
2. Two pieces of the same color on a safe space form a barrier that cannot be landed on or passed by any piece, even of the same color.

Throwing a Six

1. A throw of 6 gives another turn unless it is the 3rd six in a row.
2. If all 4 pieces have been moved out of the corner area, then a throw of 6 must be moved as 7, instead of 6 spaces.
3. If 2 of the player's pieces form a barrier when a six is thrown, one of those pieces must be moved so that the barrier is undone.
4. If 3 sixes are rolled in a row, on the third six, instead of a normal move, the piece moved on the previous throw of six (if any) is immediately returned to the starting corner area - unless it was on the home track in which case it is safe and is not returned.

Winning

1. When a piece has circumnavigated the board, it proceeds up the home column. A piece can only be moved onto the home area by an exact throw.
2. The first person to move all 4 pieces into the home area wins.



2.3 Parqués in Colombia[1]

1. Parqués is a Colombian board game in the Cross and Circle family (the category that includes Pachisi). The game is a random thinking game, that is, it is guided by the values of the dice but the player must think before making his move before, thus, not being entirely random. The objective of the game is to advance all the pieces to the end.
2. The game is invented in Colombia, it is an adaptation of the Pachisi, from India. It is very popular in that country, people from all parts of it play the game. They usually play it betting money for the first piece, trapping pieces, and winning the game. There are boards that allow up to 8 players to play at a time. The boards usually contain pictures of soccer teams, singers or actors on the jails.

For instance:

1. He gets 5-3
2. He can move 8 squares forward with one piece or
3. He can move 5 squares with one piece and 3 with another
4. After he makes his move, he must pass his turn to the player on the right.
5. The pieces cannot advance backwards and they cannot be in any of the four boxes before their HOME box.

Basic Instructions

1. Parqués is played with two dice and two to six players can compete in the same match. Each player is given 4 pieces (although it can be played with 1 to 4 pieces) and he uses a special color. Most common colors are red, blue, yellow and green, usually arranged in that order (see top screenshot).
2. The jail box is where the pieces are placed at the beginning of the match and it is where they get whenever an opponent captures them. The player must throw the dice three times to try to get a pair in order to free the pieces. A pair is played and the player gets the same value on both dice, as 2-2 or 5-5. There are two types of pairs:
 - 1-1 or 6-6; the player can free all his pieces
 - Otherwise: 2-2, 3-3, 4-4, 5-5; the player can free 2 pieces only
3. When the pieces are freed, they are placed in a special box next to the jail. This box is called HOME (SALIDA, in Spanish). See information for special boxes below.
4. If he makes his tries and no pair is got, he passes his turn to the player on his right. Otherwise, he frees the pieces and wins an extra turn to move them. He throws again and must move the values of the dice with his pieces.

[1] Parqués (2021), Available at: <https://parques.fandom.com/wiki/Parqu%C3%A9s> (Last accessed on 19 April 2021).

Throws and turn

1. Each player can throw the dice once. There are some exceptions to this rule:
2. If the player has all his pieces in jail, he can throw three times until he frees them with a pair. Otherwise, he passes the turn.
3. If the player throws a pair at any moment, for example a 4-4, he wins an extra turn. If the player throws three pairs in a row, he can place one piece in ARRIVAL it gets out of the game.

Capturing Pieces

1. The player can capture an opponent's piece by placing his own piece on the same box as the other player's piece. However, he cannot capture if the other player is on a SAFE or a HOME box. Capturing in Colombia is called "eating" ("comer" in Spanish).
2. However, the player can capture pieces on his HOME box. When he frees any piece from jail, the pieces placed on his HOME are captured, that is, sent to its jail, losing all their advances.
3. The player can avoid capturing the piece. In that case, an opponent has to accuse him and the piece that did not capture must go to jail. If nobody notices, nothing happens.

Special Boxes

There are three types of special boxes.

1. HOME: where the pieces are placed when freed.
2. SAFE: the pieces cannot be captured on this box (See capture section below)
3. ARRIVAL: These are 9 cases where the owner player gets. They are usually of the same color of the player. The 9th box is the last box in the game for each person. If a piece is moved there, it gets out of the game. When all pieces are out of the game, the player wins.

2.4 Petits-Chevaux in France

1. Petits-Chevaux, French for "little horses", is a gambling game played with a mechanical device consisting of a board perforated with a number of concentric circular slits, in which revolve, each independently on its own axis, figures of jockeys on horseback, distinguished by numbers or colors.
2. The bystanders having staked their money according to their choice on a board marked in divisions for this purpose, the horses start revolving rapidly together by means of mechanism attached to the board, and the horse which stops nearest a marked goal wins, every player who has staked on that horse receiving so many times his stake.
3. Figures of railway trains and other objects sometimes take the place of horses.
4. In recent years there has been a tendency to supplant the petits-chevaux at French resorts by the boule or ball game, on the same principle of gambling; in this a ball is rolled on a basin-shaped table so that it may eventually settle in one of a number of shallow cups, each marked with a figure.

2.5 Aeroplane Chess in China[1]

- Aeroplane Chess is a Chinese board game similar to the western game of Ludo and the Indian game of Pachisi. Developed in the 20th Century, Aeroplane Chess features airplanes as pieces instead of the more abstract pawns and beehive-shaped pieces found in the games from which it is derived.
- An Aeroplane Chess game board features 4 starting “hangars” in each corner. There is a “track” of 52 spaces circumventing the board and 4 “home zones”, each leading from the track to the “end spaces” at the center of the board. The board is evenly divided between 4 colors. There are also 4 sets of 4 colored airplane pieces. The colors used are typically red, yellow, blue and green.
- There are usually 2 to 4 players. The objective of the game is to try to be the first to get all your own plane pieces from the hangars into the base of your own color (located in the center of the board). This game requires the players to identify the optimal moves. Each player takes a turn by rolling the die.

On a turn, a player may do the following:

- Taxi a piece out of the hangar onto the board. This can only be done by rolling an even number.
- Move a piece that's on the board clockwise around the track, the number of spaces indicated by the die.

Additional rules:

- A roll of 6, whether it's used to enter or move a piece, gives that player another roll. A second 6 gives the player a third roll. If the player rolls a third 6, the piece(s) moved by the two previous 6s are sent back to the hangar.
- If a player's piece lands on a space that already has one of his own airplanes, those pieces can be stacked together. Depending on house rules determined by all the players, airplanes that are stacked then move together as one unit or only move singly. When stacked pieces are sent back to their hangar by an opponent landing on them, they are no longer stacked.
- When a player's piece lands on a space with an opponent's airplane, the opponent's airplane is attacked and sent back to their hangar. When a player's piece lands on an opponent's stack of airplanes, then all those stacked airplanes are sent back to the hangar. When a plane lands on a space of its own color, it immediately jumps to the next space of its own color.

[1] Chess, A. (2012) Aeroplane Chess, The Forgotten-past.blogspot.com. Available at: <http://theforgotten-past.blogspot.com/2012/07/aeroplane-Chess-aeroplane-Chess-is.html> (Last accessed on 19 April 2021).

- There are additional "shortcut" squares. When a plane lands on one of these of its own color, it may take the shortcut. Any opposing planes in the path of the shortcut are sent back to their hangars. This may also be done in succession with the previous rule, with a jump leading to shortcut. Some also play that a direct land on a shortcut may be followed by a jump.
- To end the game, the planes must fly into the center base on an exact roll. When a plane does so, it is placed back into its hangar, facing down, to indicate that it is done for the game. The first player to get all four of their planes to the center of the board wins. The remaining players play until there is only one loser.
- Readers, have you all played AeroplaneChess before? I remember always playing it with my friends back in primary school days! It was always available in the bookshop for \$1.50 only, and the packaging is small and compact.

2.6 Denmark

1. In Denmark and some other countries, the board has eight spaces marked with a globe and eight with a star. The globes are safe spaces where a piece cannot be captured.
2. The exception is that a player who has not yet entered all pieces, can always enter a piece on a roll of 6. If the entry space is occupied by another player's piece, that piece is captured. Otherwise, the entry spaces work like the other globe spaces. A piece which would have landed on a star instead moves to the next star.[1]

2.7 Africa

In some parts of Africa, the following rules are reportedly played:

1. A doubled block also blocks trailing pieces of the player who created the block, or blocks them unless they roll the exact number to land on the block; additionally, the doubled block cannot move forward until the block that landed upon it moves off again. This reduces the tactical advantage of a block and makes the game more interesting.
2. If the two players sitting opposite are partners, the players can exchange numbers.
3. There are four safety squares on the board, like castle squares in Pachisi, as well as the safe home squares, where a piece may be able to move forwards or backwards and start their turn before the previous player finishes.
4. A piece landing on a square with an opponent's piece not only sends the opponent piece back to the starting area but also sends the landing piece to its home square.
5. A player cannot move their first piece into the home column unless they have captured at least one piece of any of the opponents.
6. If a player captures the piece of another player, they are awarded a bonus roll. If in the bonus roll, another player's piece is captured, another bonus roll is awarded and so on.

[1] Parcheesi - cross and circle board game - Rules and strategy of tabletop games (2021), Available at: <http://gambiter.com/tabletop/Parcheesi.html> (Last accessed on 19 April 2021).

2.8 Vietnam

1. In Vietnam, it is called "Cờ cá ngựa," where the game is modeled after a horse race with the tokens modeled as horse heads. In this variation, a one is given equal status to a six (meaning that the person can enter a token into play and can roll again).
2. Furthermore, once a player's token reaches their home column, it can only go up each square with an exact roll. This means that a person outside the column must roll a one to enter the first square, a two afterwards to enter the second, and so forth.[1]

2.9 Mensch ärgere Dich nicht in Germany[3]

1. Mensch ärgere Dich nicht is a German board game. The most played variant of the game can be played by 2, 3, 4 players – one player per board side. The special one has a pattern for 6 players. Each player has four game pieces, which are in the "out" area when the game starts, and which must be brought into the player's "home" row.
2. The rows are arranged in a cross position. They are surrounded and connected with a circle of fields, over which the game pieces move in clockwise direction. There are three fields on each side of the board. At the beginning of the game, the players' pieces are placed in the four fields marked "B" on the far-left side, the "out" section.
3. The colored field just left of center, marked "A", is each player's "start" field. The white field just to the right of the start field leads to the "home" row, marked "a", "b", "c", "d". Each game piece enters the circle at the "start" field ("A"), moves (clockwise) over the board and finally enters the "home" row. The first player with all of their pieces in their "home" row wins the game. The players throw game dice in turn and can advance any of their pieces in the game by the thrown number of dots on the die.
4. Throwing a six means bringing a piece into the game (by placing one from the "out" ("B") area onto the "start" or "A" field) and throwing the dice again. If a piece is on the "A" field and there are still pieces in the "out" area, it must be moved as soon as possible. If a piece cannot be brought into the game than any other piece in the game must be moved by the thrown number, if that is possible. A commonly played variation allows a player who has no pieces in the circle of fields to have three tries to throw a six.
5. Pieces can jump over other pieces and throw out pieces from other players (into that player's "out" area) if they land on them. A player cannot throw out his own pieces, though he can advance further than the last field in the "home" row. A player can be thrown out if he is on his "start" field.

[1] Ludo, Official Rules & Other Interesting Facts (2021), Available at: <https://www.bigsmall.in/blogs/unique-gifts/Ludo-official-rules-other-interesting-facts> (Last accessed on 19 April 2021).

[2] Mensch ärgere Dich nicht Facts for Kids (2021), Available at: https://kids.kiddle.co/Mensch_%C3%A4rgere_Dich_nicht (Last accessed on 20 April 2021).

2.10 Uckers in England[1]

Uckers is played by four people with the players opposite each other partnering to form 2 teams. It is essentially Ludo with extended rules that make it a more absorbing and skillful game.

Basic Play

1. Players take turns in a clockwise order; the player with the highest throw of the two dice starts.
2. Each throw, the player decides which pieces to move. A piece simply moves in a clockwise direction around the track. There are 2 options:
3. One piece is moved the value of one die, a second piece is moved the value of the other die.
4. One piece is moved the total value of both dice (the piece does not stop on an intermediate square reached by the throw of one of the die - so cannot take any piece except one lying on the final square).
5. If only one piece is left, then the total of both dice must be used, if possible. If the total cannot be used, then the largest number of the two dice must be used, if possible and the other dice throw is forfeited. If no piece can legally move, both dice throws are forfeited.

Starting a Piece

1. The only way for a player to move a piece from the starting circle onto the track is by throwing a 6.
2. Whenever a 6 is thrown, the player has the option of moving a piece from the starting circle to the first square on the track instead of moving a piece already on the track. A double 6 can be used to start 2 pieces on the track.

Additional throws

1. A throw of a 6 or a double 6 gives one additional throw of both dice. The additional throw happens even if the player cannot move with the 6. The only exception to this is that no additional throws are allowed when a player has just captured a blob,
2. If the additional throw shows a 6 or a double 6, another additional throw is granted, and so on.

Capturing

1. If a piece lands on an opponent's single piece, the piece jumped upon is returned to its starting circle.
2. If a player's piece lands on a square with one or more of their partner's pieces this is called a 'mixed blob'. If an opponent lands on a mixed blob, all the pieces are captured and returned to their starting circle.

[1] Rules and instructions for the games of Uckers (2021), Available at: <https://www.mastersofgames.com/rules/uckers-rules-instructions-guide.htm> (Last accessed on 19 April 2021).

Blobs

1. A square containing one or more pieces of the same color forms a barrier known as a 'blob'. By default, a blob cannot be passed or landed on by an opponent but a blob does not block a partner's pieces.
 - a. A blob can be captured but only by following the proper series of events viz.:
 - b. An opposing player must move a piece to the square before the blob.
 - c. The opposing player must next throw a 6 and say "Challenge". Note that a player cannot move into position and say "Challenge" in the same throw. As soon as the challenge has been laid down, the player cannot advance any other piece until the blob is captured or the barrier is returned to a single piece by the opponent. On the challenge turn, the second dice value is forfeited, even if it is a 6. But the player does have an extra throw.
 - d. The opposing player must then throw a 6 for each piece making up the blob. So, a blob consisting of 3 pieces needs 4 throws of 6 (including the Challenge throw) to remove it. Unlike the challenge turn, both 6s of a double 6 count towards this end.
 - e. Once the final 6 has been thrown, the capturing piece moves onto the blob's square and the blob's pieces are returned to their starting circle. The turn immediately comes to an end, any unused die value is forfeited and no additional throw is made.
 - f. A piece in a starting circle can challenge a blob on the adjacent starting square. However, an additional 6 is required. For example, to capture a blob consisting of three pieces from a starting circle would require a challenge followed by 4 more throws of 6.
 - g. A player cannot challenge a blob from a mixed blob.

Winning

1. Once a player has reached the home triangle with all 4 pieces, that player must then throw a six. Once a six has been thrown, from the next turn onwards, that player moves their partner's pieces, if possible.
2. When a piece has circumnavigated the board, it proceeds up the home column. A piece can only be moved onto the home triangle by an exact throw. The first team to move all 8 pieces into the home triangle wins.
3. Thus, there are different variations of Ludo available throughout the Globe and the rules applicable while playing them also vary from region to region.

DIGITIZATION OF LUDO

Ludo follows its underlying foundations to the ancient Indian game of Chaupar dating back to the 6th Century which was subsequently developed into a game called Pachisi. The game of Pachisi was very famous in early and middle age India. The earlier accounts of historians dictate that this game of Chaupar was not played on board and the apparatus used in this game was made from clothing material. The game of Chaupar, however when later was developed into Pachisi, involved the use of board and has ever since been played on the board.

The Dawn of Virtual Gaming

- Over the last few years, the Indian smartphone industry has expanded significantly. New information about the effect of smartphones on different markets and consumer groups is being uncovered in a fast-pace environment. The gaming industry, in particular, is experiencing a major transformation as a result of the smartphone revolution. Investments from big players such as Alibaba, Tencent, Nazara, and Youzu have led to a rapid growth of the gaming industry in India.
- The gaming industry in India was valued at about 62 billion Indian rupees in 2019 and is expected to grow to more than 250 billion Indian rupees by 2024. The number of new job openings in the gaming industry in the country is a strong indication of the sector's continuous evolution. By 2022, it is expected that the industry will employ over 40 thousand people.[1]
- India, as the world's largest democratic nation with a young demographic, is welcoming the new generation's passion in digital sports and entertainment. In 2016, it was estimated that 55 percent of casual gamers and 66 percent of heavy gamers in India were under the age of 24. Heavy players, in particular, tended to use their cell phones as gaming machines rather than the conventional gaming consoles.
- Mobile gaming in the country is growing at a rapid rate due to development and affordability of smartphones. The market value of mobile gaming in India was estimated to reach about 405 million U.S. dollars by 2022. The number of mobile phone gamers was anticipated to be around 628 million by 2020 according to the forecast.[1]

[1] Statista, Online gaming in India, available at <https://www.statista.com/topics/4639/online-gaming-in-india/> (Last accessed on 20 April 2021)

- With the advent of online gaming, what was once restricted to the confines of walls was introduced to the world via online realm. The board game of Ludo which was physically played was now available online as well. The most well-known being – 'Ludo King' by Gametion Technologies. Although the application was created four years prior in 2016, it saw a gigantic spike in its dynamic clients in India after the lockdown forced by the public authority in the wake of Corona virus.
- Ludo King, amongst other Ludo games, is accessible for play in four unique modes, in particular the nearby mode, PC mode, online multiplayer mode, and private multiplayer mode. The neighborhood mode manages the typical pass and play, online multiplayer mode permits playing with different players around the world, and the PC mode and private multiplayer mode permits playing with companions in the private rooms.[1] The PC mode permits the player to finish a disconnected game against the PC utilizing AI-based innovation. The nearby mode permits various players to contend in the disconnected mode. Then again, the online multiplayer mode empowers clients to play with others on the web even though they don't have the alternative to pick who they need to play with. Nonetheless, in the private multiplayer mode, it is feasible to play with various players on the web and you can likewise pick who you need to play with. There is a choice to pick Facebook companions in the online mode. Ludo King likewise permits you to play with upwards of six parts in the neighborhood multiplayer mode.[2]
- Ludo King for PC is accessible for download from various online sites. It has a few prominent highlights including rooms to have the option to play with loved ones, the utilization of topics that permit diverse general media settings for unrivaled encounters, joint effort choice for Ludo matches, capacity to play the game with players arranged around the world, and the choice to take part in voice talk with loved ones while playing the game.
- Not only are such games played virtually, but many businesses have launched websites and applications (discussed in detail in Chapter 2) where players can play virtual Ludo games for real money. Several other Ludo variants and modes are also available, which keeps players interested in the game.

[1] Now 6 people can play Ludo together online thanks to Ludo King's new modes (2021), available at: <https://tech.hindustantimes.com/gaming/news/Ludo-king-will-now-let-six-people-play-Ludo-together-online-with-its-new-modes-71610193513516.html> (Last accessed on 20 April 2021).

[2] Ludo King, Available at: <https://internationaljournalofresearch.com/2020/07/08/Ludo-king/> (Last accessed on 20 April 2021).

CONCLUSION

- The game of Ludo from its inception in India, in the form of Chausar to the widely known variant Pachisi, which was later re-named and patented in the form of Royal Ludo, to the currently played game of “Ludo”, can now be played online with players from across the world. This game has effectively evolved throughout ages and now is widely popular amongst the masses of different countries. This game which originated in India is played with different variations throughout the world such as with two dices in Colombia or the colloquial version called “Uckers” played in UK.
- In India also, different variations of Ludo are available such as the most prominent available online being Ludo King, Ludo All Star, which follow the inherently established rules of Pachisi and Ludo. However, the other variations of Ludo are those which are playable with real money (As discussed in Chapter II). It is in this regard pertinent to note that the games involving real money are not available on the Google Play store or IOS and have to be individually and separately be downloaded from the websites of the particular games.
- The Indian Legislature provides that gambling of any sorts is illegal barring the games which involve skill. The Indian Judicature and legislative minds are thus divided in categorizing what game of skill and what is a game of chance is falling into the ambit of gambling.
- Ludo is now available to play online across the globe and having the large fan base it does, it can be played for real money, which can be easily misconstrued as ‘gambling’ in view of Ludo not having been specifically identified as a game of skill in the Indian jurisprudence as on date. Although an analysis of the legal precedents and the tests propounded therein would indicate that Ludo is not a game of pure chance and rather a game of skill. This aspect is further crucial and discussed in the following Part as the gaming industry in not standardly regulated throughout the geography of India, with different States having legislated varying laws in this respect.
- It, therefore, becomes essential to evaluate the laws and regulations prevalent in India which might affect or govern the game of Ludo.



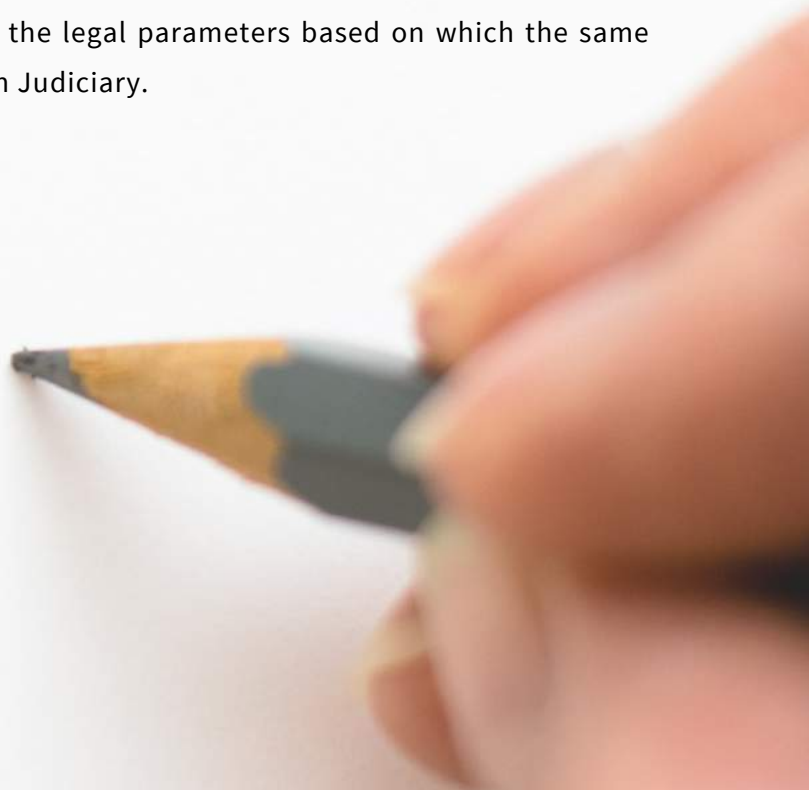
PART B

**ROLE OF CHANCE,
SKILL & STRATEGY
IN LUDO**

**AND IMPLICATIONS OF LAWS
PREVALAND IN INDIA**



- This Part entails a detailed analysis pertaining to the prevalent Indian Legislative and Jurisprudential Framework regarding the Role of Chance, Skill, and Strategizing in laws related to games and gaming activities in India. Further, the concerned Chapter in the present Part comprehensively analyzes the jurisprudence laid down by the concerned Indian Courts to identify and determine evolution of interpretations in respect of the Role played by Chance, Skill, and Strategy in games.
- It is imperative to understand how the three facets of Role of Chance, Role of Skill, and Role of Strategy have been perceived and relied upon by Indian Courts to determine whether a game falls within the purview of gambling or not. Before progressing to studying the body of jurisprudence on the subject, it is, however, essential to examine the legislative framework upon which this body comprising case law and dicta from Courts has been established.
- Chapter I in this Part accordingly presents the legislative framework on gaming and gambling laws in India and the same is followed by Chapter II which identifies and presents the jurisprudence on the subject. Pursuant thereto, the trilogy of Chapters of the present Part is completed with Chapter III with an analysis of the Role of Chance, Role of Skill, and Role of Strategy in the game of Ludo and the legal parameters based on which the same could stand to be determined by the Indian Judiciary.



CHAPTER I: LEGAL FRAMEWORK

1.1 CONSTITUTION OF INDIA–LEGISLATIVE POWERS IN RELATION TO GAMBLING AND BETTING

- The Constitution of India, 1950 provides for a quasi-federal structure, entailing that it is federal in form but unitary in spirit^[1] and the legislative powers have been distributed between the Centre and the States under Article 246 of the Constitution.
- While the allocation of legislative powers on gaming laws to the Centre or State do not find a specific mention in the Constitution, the power of the States to legislate on ‘Betting and Gambling’ is traced to Entry 34 List II (State List) of the Seventh Schedule of the Constitution. Thus, the States have exclusive power to make laws on this subject including power to prohibit or regulate gambling etc. in their respective territorial jurisdictions. Further, Article 249 of the Constitution empowers the Parliament to legislate with respect to a matter in the State List in the National Interest.
- In **H.Anraj V. State of Maharashtra**^[2] the Hon’ble Supreme Court of India observed:

“.....there is no dispute before us that the expression "Betting and gambling" includes and has always been understood to have included the conduct of lotteries. Quite obviously, the subject 'Lotteries organized by the Government of India or the Government of a State' has been taken out from the legislative field comprised by the expression "Betting and gambling" and is reserved to be dealt with by Parliament. Since the subject 'Lotteries organized by the Government of India or the Government of a State' has been made a subject within the exclusive legislative competence of Parliament, it must follow, in view of Act (sic) Art. 246(1) and (3), that no legislature of a State can makes a law touching lotteries organized by the Government of India of (sic) or the Government of a State... This, as we said, is but recognition of the prevailing situation under the Constitution. The Constitutional position cannot be altered by an act of the State legislature.”

From the above, it is derived that while convening lotteries (encompassing a significant role of chance) is permitted in India and is specifically legislated upon by the Centre, the laws concerning gaming in India are scattered across the spectrum of generic laws. The legislative framework does, however, encompass laws concerning gambling and betting, which are to a certain degree relevant for determining –from the jurisprudential principles emanating therefrom – the legal and regulatory implication of the role of chance, skill, and strategy in a certain game.

[1] KC Wheare, Modern Constitutions 51 (Oxford University Press, London, 1962).

[2] AIR 1984 SC 781.

- To better appreciate the constitutional scheme, it is relevant to additionally note that:
 - Article 38 of Constitution of India provides that the State shall secure social order for promoting welfare of its people by securing justice, social, economic and political.
 - Article 39 of the Constitution directs the State to provide adequate means of livelihood to every citizen and to make sure that the economic system does not lead to unfair accumulation of wealth, rather the ownership and control of the resources of the community are so distributed as best to sub serve every class of society.

It is also expected that the State oversees that children and youth are protected against exploitation, both moral and material.

- Whether a game falls within the ambit of gambling or not is also determined on the predominance of skill over chance and vice versa. In *M/s. B.R. Enterprises v. State of U.P. &Ors.*[1] It was observed that gambling is not a ‘trade’ within the meaning of Article 19(1) (g) or Article 301 of the Constitution, and is therefore not constitutionally protected. This is because gambling is inherently based on chance with minimum to no involvement of skill, while trade is predominantly skill-based. Interestingly, the Supreme Court also held lottery to be a form of gambling due to the overriding factor of chance and said that merely because lottery is run by State, it will not change its character as *Res Extra Commercium*.
- However, to derive a cursory understanding of how gaming has been perceived under the Indian jurisprudence, before delving into a detailed study, it is noted that the Supreme Court in *M.J. Sivani &Ors. v. State of Karnataka &Ors.*[2], referred to two definitions of gaming as given in the *Strouds Judicial Dictionary* and the *Black’s Law Dictionary*, as presented below:

The Strouds Judicial Dictionary

“To play any game, whether of skill or chance for money or money’s worth; and the act is not less gaming because the game played is not in itself unlawful and whether it involved or did not involve skill.”

The Black’s Law Dictionary

“The practice or act of gambling. An agreement between two or more persons to play together at a game of chance for a stake or wager which is to become the property of the winner, and to which all contribute. The element of gaming is the presence of price or consideration, chance and prize or reward.”

[1] AIR 1999 SC 1867

[2] AIR 1995 SC 1770. The Hon’ble Supreme Court in this specific matter was concerned with adjudicating upon applicability of the legislations of Karnataka and Tamil Nadu concerning “gaming” to video games.

The Hon'ble Supreme Court in M.J. Sivani observed that:

“10. Gaming, therefore, is an inclusive definition which includes a game of chance and skill combined or a pretended game of chance or of chance and skill combined instrument of gaming would include any article used or intended to be used as a subject of means of gaming, any document used or intended to be used as a register or record or evidence of gaming, the profits of any gaming or any winnings or prizes in money or otherwise distributed or intended to be distributed or money's worth in gaming....The elements of gaming are the presence of prizes or consideration, chance and prizes are reward and games includes a contrivance which has for its object to furnish sport, recreation or amusement... A common gaming house is a place or public place kept or used for playing therein any game of chance, or any mixed game of chance and skill, in which the organizer keeps one or more of the players....Gaming is to play any game whether of skill or chance for money or money's worth and the act is not less gaming because the game played is not in itself unlawful and whether it involved or did not involve skill.”

The Hon'ble Supreme Court in this judgment noted that, wherein a certain game, certain operations are performed to enable the player to play the game, the person performing them must be deemed to be “gaming” or assisting in the gaming. The Hon'ble Supreme Court further observed that:

“11..."To game", therefore, is to play any game, whether of skill or chance, for money or money's worth. It is playing of the game for money or money's worth whether the game be lawful or not. No game can be a game of skill alone. In any game in which even great skill is required, chance must play a certain part. Even a skilled player in a game of mere skill may be lucky or unlucky, so that even in a game of mere skill chance must play its part. But it is not necessary to decide in terms of mathematical precision the relative proportion of chance or skill when deciding whether a game is a game of mere skill. When in a game the element of chance strongly preponderates, it cannot be a game of mere skill. Therefore, it is not practicable to decide whether a particular video game is a game of skill or of mixed skill and chance. It depends upon the facts, in each case. ”



Therefore, in the above-said case, the Hon'ble Supreme Court had carefully deliberated upon the ingredients of gaming and as to whether gaming constitutes skill or chance or both. The observation made in this judgment categorically states that no gaming activity involves only skill or only chance and even in a game which requires great skill, chance plays its integral role, which may turn out to be a deciding factor in the outcome of the game. Thus, the only measure available to ascertain whether the game at hand is a game of skill or chance is to observe and carefully outline the dominant aspect of the game i.e., the preponderance of chance over skill or vice versa. In such a scenario, based on the observation of the Hon'ble Supreme Court, if "chance" has a dominant and more weighing capacity while evaluating the aspects of the game, then the same cannot be held to be a game of mere skill. Also, the Hon'ble Court while observing the above-mentioned made an intriguing and practical observation in this regard and stated that such facts are to be evaluated on case-to-case basis and ought to be case-specific.



1.2 PRINCIPLES CONCERNING PUBLIC POLICY OF INDIA

- Prior to proceeding with identifying the specific laws comprising the legal framework, it is essential to understand the contextual principles in respect of the Public Policy of India as the same has a significant bearing on determining not only object and purpose of laws but also the interpretation of laws in India.
- Public Policy is regarded as a Common Law Doctrine, wherein an activity or action which affects/offends the public interests or where harmful result of permitting the contract in terms of injury to the public at large, is evident.[1] Public Policy varies from generation to generation and even within the generation, and therefore it does not remain static.[2] Social circumstances and societal needs change with time and so changes the public policy of a society.[3]
- Importantly, in *Guru Prasad Biswas & Anr. v. State of West Bengal & Ors.*[4] the Hon'ble High Court of Calcutta held that betting and gambling activities affect a person's morality and therefore infringe the right to life guaranteed under Article 21 of the Constitution.
- Given the above brief context, the next segment identifies the relevance of public policy in relation to certain relevant laws in reference to wagering, gambling, and betting.

1.2.1 The Dawn of Virtual Gaming

- Section 23 of the Indian Contract Act, 1872[5] states that consideration or object of an agreement would be lawful unless regarded as immoral, or opposed to public policy by the courts of law.
- The Hon'ble Supreme Court in *Central Inland Water Transport Corporation Limited & Anr. v. Brojo Nath Ganguly & Anr.*[6], while observing the essentials of Section 23 observed that: “[...] the Indian Contract Act does not define the expression "public policy" or "opposed to public policy". From the very nature of things, the expressions "public policy", "opposed to public policy" or "contrary to public policy" are incapable of precise definition....Public policy, however, is not the policy of a particular government. **It connotes some matter which concerns the public good and the public interest. The concept of what is for the public good or in the public interest or what would be injurious or harmful to the public good or the public interest has varied from time to time.**”

[1] *Union of India v. Gopal Chandra Misra*, AIR 1978 SC 694; See also, *Firm of Pratap chand Nopajiv. Firm of Kotrike Venkata Setty & Sons*, AIR 1975 SC 1223.

[2] *ONGC v. Saw Pipes*, AIR .2003 SC 2629.

[3] *Murlidhar Agrawal v. State of Uttar Pradesh*, AIR 1974 SC 1924; See also, *Board of Control of Cricket in India v. Cricket Association Of Bihar* (2015) 3 SCC 251.

[4] (1998) 2 Cal LT 215.

[5] The Indian Contract Act, 1872.

[6] AIR 1986 SC 1571.

- The Hon’ble Supreme Court while analyzing the implications and scope of Section 23 in *Gherulal Parakh V Mahadeodas Maiya &Ors.*[1] held that:

“The word 'immoral' is very comprehensive word. Ordinarily it takes in every aspect of personal conduct deviating from the standard norms of life It may also be said that what is repugnant to good conscience is immoral. Its varying content depends upon time, place and the stage of civilization of a particular society. In short, no universal standard can be laid down and any law based on such fluid concept defeats its own purpose. The provisions of Section 23 of the Contract Act indicate the legislative intention to give it a restricted meaning. Its juxtaposition with an equally illusive concept, public policy, indicates that it is used in a restricted sense; otherwise, there would be overlapping of the two concepts. In its wide sense what is immoral may be against public policy covers political, social and economic ground of objection. Decided cases and authoritative text-books writers, therefore, confined it, with every justification, only to sexual immorality. The other limitation imposed on the word by the statute, namely, "courts consider immoral" brings out the idea that it is also a branch of the common law like the doctrine of public policy, and, therefore, should be confined to the principles recognized and settled by Courts. Precedents confine the said concept only to sexual immorality and no case has been brought to our notice where it has been applied to any head other than sexual immorality. In the circumstances, we cannot involve a new head so as to bring in wagers within its fold.”

The above context is relevant in understanding the perception that the Indian judiciary has carried and even recorded in the leading decision of *State of Bombay v. R.M.D. Chamarbaugwala*[2] wherein the Hon’ble Supreme Court has noted as below:

“The question canvassed before us is whether the Constitution makers who set up such an ideal of a welfare State could possibly have intended to elevate betting and gambling on the level of country's trade or business or commerce and to guarantee to its citizens, the right to carry on the same. There can be only one answer to the question.

From ancient times seers and law givers of India looked upon gambling as a sinful and pernicious vice and deprecated its practice. Hymn XXXIV of the Rigveda proclaims the demerit of gambling. Verses 7, 10 and 13 say:

"7 Dice verily are armed with goads and driving hooks, deceiving and tormenting, causing grievous woe. They give frail gifts and then destroy the man who wins, thickly anointed with the player's fairest good.

[1] AIR 1959 SC 781.

[2] AIR 1957 SC 628.

10 The gambler's wife is left forlorn and wretched: the mother mourns the son who wanders homeless.

In constant fear, in debt, and seeking riches, he goes by night unto the home of others.

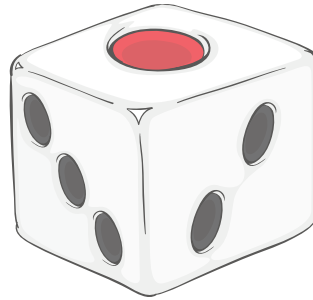
11 Play not with dice: no, cultivate thy corn- land.

Enjoy the gain, and deem that wealth sufficient. There are thy cattle, there thy wife, O gambler. So, this good Savitar himself hath told me."

*The Mahabharata deprecates gambling by depicting the woeful conditions of the Pandavas who had gambled away their kingdom. Manu forbade gambling altogether. Verse 221 advises the king to exclude from his realm gambling and betting, for those two vices cause the destruction of the kingdom of princes. Verse 224 enjoins upon the king the duty to corporally punish all those persons who either gamble or bet or provide an opportunity for it. Verse 225 calls upon the king to instantly banish all gamblers from his town. In verse 226 the gamblers are described as secret thieves who constantly harass the good subjects by their forbidden practices. Verse 227 calls gambling a vice causing great enmity and advises wise men not to practice it even for amusement. The concluding verse 228 provides that on every man who addicts himself to that vice either secretly or openly the king may inflict punishment according to his discretion. While Manu condemned gambling outright, Yajnavalkya sought to bring it under State control but he too in verse 202(2) provided that **persons gambling with false dice or other instruments should be branded and punished by the king.** Kautilya also advocated State control of gambling and, as a practical person that he was, was not-averse to the State earning some revenue therefrom. Vrihaspati dealing with gambling in chapter XXVI, verse 199, recognizes that gambling had been totally prohibited by Manu because it destroyed truth, honesty and -wealth, while other law givers permitted it when conducted under the control of the State so as to allow the king a share of every stake. Such was the notion of Hindu law givers regarding the vice of gambling. Hamilton in his Hedaya, vol. IV, book XLIV, includes gambling as a kiraheeat or abomination. He says: **"It is an abomination to play at Chess, dice or any other game; for if anything is staked it is gambling, which is expressly prohibited in the Koran; or if, on the other band, nothing be hazarded it is useless and vain."** The wagering con. tracts of the type which formed the subject-matter of the case of Ramloll v. Soojumnul (1) and was upheld by the Privy Council as not repugnant to the English Common Law were subsequently prohibited by Act XXI of 1948 which was enacted on the suggestion of Lord Campbell made in that case and introduced in India provisions similar to those of the English Gaming Act (8 & 9 Vict. c. 109). Bengal Gambling Act (Ben. II of 1867) provided for the punishment of public gambling and the keeping of common gaming house in the territories subject to the Lieutenant Governor of Bengal. Lottery has been, since 1870, made an offence, under s. 294A of the Indian Penal Code. Gambling agreements have been declared to be void under the Indian Contract Act, 1872 (s.*

30). This in short is how gambling is viewed in India."

While the above does not necessarily imply the complete position in respect of gaming in Indian law, certain Indian States have however deviated from the pronouncements of Supreme Court by introducing amendments to the concerned legislations with a view to prohibit wagering even in the context of games of skill. The details in respect of the concerned States have been presented further below in the respective segments of the present Chapter.



1.3 Wagering Agreements

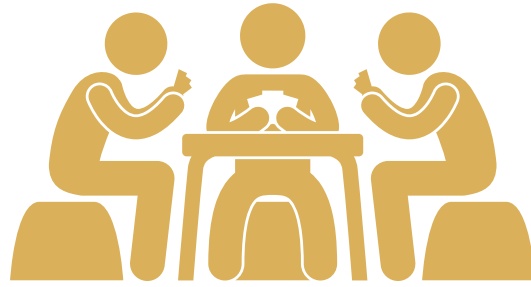
1. Section 30 of the Indian Contract Act, 1872^[1] states that a wager is void and unenforceable but it is not forbidden by law and hence, cannot be termed as illegal.^[2] Section 30 provides that no agreement can be made by way of wager and if any agreement has been made in this regard, it is void.
2. In the landmark case of *Carlill v. Carbolic Smoke Ball Co.*^[3] a wagering agreement was defined as: *“one by which two persons, professing to hold opposite views touching the issue of a future uncertain event, mutually agree that, dependent upon the determination of that event, one shall win from the other, and that other shall pay or hand over to him, a sum of money or other stake; neither of the contracting parties having any other interest in that contract than the sum of stake he will so win or lose, there being no other real consideration for the making of such a contract by either of the parties.”*
3. The Hon’ble Supreme Court of India has noted that Section 30 of the Indian Contract Act is parametria with Section 18 of the Gambling Act, 1845 of United Kingdom.^[4] However, interestingly, Section 18 of the Gambling Act, 1845 has been repealed by way of Section 334 of the said Act.
4. In view of the above, it can be unambiguously stated that if any debt is accrued or becomes payable by any concerned person owing to any wagering activity (including any gaming activity), the same shall not be enforceable or considered as an actionable claim or any income which carries a right to receive the same
5. and ipso facto cannot be claimed or recovered in the court of law.

[1] The Indian Contract Act, 1872.

[2] *Gherulal Parakh V. Mahadeodas Maiya &Ors.*, AIR 1959 SC 781.

[3] [1892] 2 Q.B. 484.

[4] *Gherulal Parakh V. Mahadeodas Maiya &Ors.*, AIR 1959 SC 781.



1.4 Difference between gaming^[1] and betting or wagering

- Importantly, in pre-independence era, the concept of “gaming” as enshrined under the State specific legislation of Madras Gaming Act, 1930 has been distinguished from betting or wagering specifically in the context of horse-racing. The distinction was drawn in *Public Prosecutor v. VerajLal Sheth*^[2] whereby it was noted as below:

“[...]On behalf of the accused Mr. K.S. Jayarama Aiyar contends that gaming is not betting or wagering, and that as it has been defined in the Act as including wagering or betting on a horse-race only under certain limited conditions his client cannot be convicted of keeping a common gaming house where there was wagering or betting on events other than a horse-race. In the Oxford English Dictionary gaming is defined as:

The action or habit of playing at games of chance for stakes; gambling.

Sir William Anson's definition of a wager or bet is:

A promise to give money or money's worth upon the determination or ascertainment of an uncertain event.

*The principal distinction between gaming and betting or wagering is thus immediately apparent; **in gaming the stake is laid by the players upon a game, the result of which may depend to some extent upon the skill of the players**, but in a bet or wager, the winning or losing of stake depends solely upon the happening of an uncertain event.”*

- It is derived from the above that the word “gaming” – as perceived by the Indian judiciary – encompasses gambling which entails the occurrence or non-occurrence of an unpredictable event. An important distinguisher between gaming on one hand and betting/wagering on the other is that in gaming the stakes are placed on an event wherein the outcome could be based on the performance of the players; whereas, in betting/wagering the stakes are placed on an event, the outcome of which is uncertain by the degree of chance associated with the said event.

[1] The word “gaming” includes activities qualifying as gambling, as derived from understanding developed above based on the finding in “Gaming is to play any game whether of skill or chance for money or money's worth and the act is not less gaming because the game played is not in itself unlawful and whether it involved or did not involve skill” - *M.J. Sivani &Ors. v. State of Karnataka &Ors.* AIR 1995 SC 1770.

[2] AIR 1945 Mad 164.

1.5 Gambling is not a Trade

In *State of Bombay v. R.M.D. Chamarbaugwalathe*[1] Supreme Court held that gambling does not fall within the ambit of trade, commerce etc. and therefore, the protection that may so be available under Article 19(1)(g) and or 301, in view of the above observation of the Court, is not available to activities qualifying as gambling. This observation and interpretation of the Court in the above-said case has remained constant and has been followed in *M/s. B.R. Enterprises v. State of U.P & Ors.*[2], the Supreme Court observed that gambling is not a “trade” within the meaning of Article 19(1)(g) or Article 301 of the Constitution and is thereby not constitutionally protected.



1.6 Public Gambling Act, 1867

- The Public Gambling Act of 1867 was derived from the British Gaming Act, 1845 and the Betting Act, 1853. The said Acts of 1845 and 1853 made wagering contracts unenforceable.[3] The main intent of these Acts was to punish public gambling and keeping of “common gaming-houses”, which was rampant at the time of this enactment.
- Since, the Constitution of India confers upon each State the right and authority to make legislation on “Betting” and “Gambling” which are enshrined under Entry 34 of List II of the Seventh Schedule, there cannot be a Central Legislation on the subject unless the Parliament legislates by exercising its power under Articles 249 or 250 or by exercising power conferred by Article 252 of Constitution. The 1867 Act when enacted, was only applicable to North-West Provinces, Presidencies of Fort William, the Punjab, Oudh, the Central Provinces and British Burma.

[1] AIR 1957 SC 628.

[2] AIR 1999 SC 1867.

[3] Unlawful Games Act, 1541, 33 Hen. 8 c. 9 (Eng.); Carl Rohsler (Ed.), *The Gambling Law Review*, 2nd Edition, Gideon Robertson, Law Business Research Ltd., London, United Kingdom, 2017, p. 129.

- The Government of India Act, 1935 inserted all matters pertaining to betting and gambling under Entry 36 of List II (Provincial Legislative List). Accordingly, under sub section 3 of section 100, the Provincial legislatures alone were authorized to enact laws pertaining to betting and gambling. In addition to this, the Provincial legislatures had legislative competence under Entry 50 of List II of Act 1935 to enact laws pertaining to taxation on betting and gambling.[1]
- This classification and categorization as provided in the Government of India Act, 1935 was adopted by the Constitution of India and Betting and Gambling were inserted as Entry 34 in List II of the Seventh Schedule. The power thus conferred on the State allows them to make laws pertaining to betting and gambling. Additionally, Entry 62 of the State List confers upon the State legislature, the competence to make laws pertaining to taxation on betting and gambling.
- Accordingly, after 1935, with the States in India having been conferred with the exclusive power to enact laws on “betting and gambling” as also laws concerning taxation thereof, the Public Gaming Act has been superseded by State enacted laws, and continues to remain applicable only in a few States in India: (a) the Legislatures whereof have adopted the Public Gambling Act; and (b) in states without any specific gambling laws, the Public Gambling Act of 1867 prevails.
- It is pertinent to note in this respect that the Public Gambling Act that this Legislation has expressly carved out an exception in regards to “games of skill” and such games are outside the purview of the gambling act. The same is much in keeping with the above-presented jurisprudential findings of the Hon’ble Supreme Court in M.J. Sivani.



[1] 276th Report of the Law Commission of India (2018).

1.6 State Laws

- The following 16 States (including Union Territories with legislative powers) have passed enactments adopting the Public Gambling Act, 1867 as it is, namely:
 - Andaman Nicobar – The Andaman and Nicobar Islands Public Gambling Regulation, 1951
 - Arunachal Pradesh - The Arunachal Pradesh Gambling (Prohibition) Act, 2012.
 - Chandigarh- Public Gambling Act, 1867 (Made applicable to Chandigarh by 1929 Amendment of Act)
 - Haryana- Public Gambling Act, 1867 (Made applicable to Haryana by 1929 Amendment of Act)
 - Himachal Pradesh- The Public Gambling (Himachal Pradesh Amendment) Act, 1976
 - Lakshadweep- Public Gambling Act 1867.
 - Punjab- - Public Gambling Act, 1867 (Made applicable to Punjab by 1929 Amendment of Act)
 - Madhya Pradesh- Public Gambling (Madhya Pradesh Amendment) Act, 1976
 - Chhattisgarh- Based on observation made Mohammed Siddique vs State Of Chhattisgarh And Ors., 2006 Cri LJ 2007
 - Manipur- The Public Gambling Act, 1867 (Manipur)
 - Mizoram- Public Gambling Act, 1867
 - Tripura – The Public Gambling (Tripura) Act, 1976
 - Uttarakhand- Public Gambling Act 1867 (Based on observation made in Mukesh Thaleri v. State of Uttarakhand, Claim Petition No. 34/DB/2018 before Uttarakhand Public Services Tribunal)
 - Uttar Pradesh- Uttar Pradesh Public Gambling Act, 1961
 - Ladakh - Public Gambling Act, 1867
 - Jammu & Kashmir - Public Gambling Act, 1867 (Under Section 95 of the Jammu and Kashmir Reorganization Act, 2019, the Acts mentioned in Fifth Schedule (includes Public Gambling Act 1867) are applicable to Union Territory of Ladakh also.)
- States such as Kerala (*Kerala Gaming Act, 1960*), Bihar and Jharkhand (*Bengal Public Gambling Act, 1867*) have enacted laws on ‘Betting and Gambling’, following the model of the Public Gambling Act, 1867, and prohibiting gambling and keeping of common gaming houses, while making an exception for “Games of Skill”.

[1] Pg. 59, Law Commission Report 276th, (2018).

- The details of state-specific legislations on gaming more so in the context of gambling are presented as below:

- **Maharashtra, Gujarat & Dadra and Nagar Haveli** - The Bombay Prevention of Gambling Act, 1887

The Act, 1887, applies to the States of Maharashtra and by virtue of the Bombay Reorganization Act, 1960, to Gujarat as well. Further, the Ministry of Home Affairs vide their notification dated 21.02.1985 extended the applicability of this act of 1887 to Dadra and Nagar Haveli under the powers conferred to Central Government by section 10 of the Dadra and Nagar Haveli Act, 1961. While prohibiting and penalizing ‘betting or wagering’, the Act, under section 3, exempts from its ambit “wagering or betting upon a horse-race or dog race” and under section 13, “games of mere skill wherever played”.^[1] However, in respect of State of Gujarat, in the case of Dominance Games Pvt. Ltd v. State of Gujarat the Hon’ble High Court of Gujarat has held that games played with skill may also fall within the ambit of gambling and hence will be illegal.

- **Meghalaya** - The Meghalaya Prevention of Gambling Act, 1970
- **Rajasthan** - The Rajasthan Public Gaming Ordinance, 1949
- **Goa, Daman and Diu** - The Goa, Daman and Diu Public Gambling Act, 1976

The Act, 1976 aims to “provide for the punishment for public gambling and the keeping of common gaming houses in the Union territory of Goa, Daman and Diu”. However, it is one of the only two State Legislations in operation that permits casinos and other games of chance. The Goa Legislative Assembly by amending the Act in 1992 and 1996 added Section 13A, which allows the State Government to authorize games of “electronic amusement/slot machines in Five Star Hotels” and “such table games and gaming on board in vessels offshore as may be notified”. The Goa, Daman and Diu Public Gambling Act, 1976 expressly defines the term ‘gaming’ in the following words:

“[g]aming’ includes (a) wagering or betting and includes wagering or betting on the digits of a numerical figure arrived at by manipulation in any manner whatsoever, or on the order of the digits, or on the digits themselves or on pictorial representations, (b) any transaction by which a person in any capacity whatever employs another person in any capacity whatever or engages for another in any capacity whatever, to wager or bet with any other person, (c) the collection or soliciting of bets, receipts or distribution of winnings or prizes in money or otherwise in respect of wagering or betting or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution, but does not include a lottery.”

[1] 2017 SCC OnLineGuj 1838

- **Tamil Nadu** - The Tamil Nadu Gaming Act, 1930, The Tamil Nadu Prize Schemes (Prohibition) Act, 1979 & Chennai City Police Gaming Rules, 1949 (Tamil Nadu)

The Act, 1930 applies to the State of Tamil Nadu, excluding the City of Madras, which is governed by the Madras City Police Act, 1888 and aims to “provide for punishment for gaming and the keeping of common-gaming houses in the State of Tamil Nadu.” The Tamil Nadu Betting Tax Act, 1935 provides for the structure of taxation with respect to horse-races and pony-races in the State. Under the Tamil Nadu Gaming Act, 1930, “gaming” does not include a lottery but includes wagering or betting, which for the purposes of this definition are “deemed to comprise the collection or soliciting of bets, the receipt or distribution of winnings or prizes, in money or otherwise, in respect of any wager or bet, or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt, or distribution.”

- **Sikkim** - The Sikkim Casinos (Control & Tax) Act, 2002, Sikkim Casino Games (Control and Tax) Rules 2007 & The Sikkim Online Gaming (Regulation) Act, 2008, Sikkim Online Gaming Regulation Rules, 2009

The Act, 2002 authorizes the Government of Sikkim to grant licenses to businesses and individuals to operate casinos in the State. The Sikkim Regulation of Gambling (Amendment) Act, 2005, grants discretion upon the government to grant licenses, authorizing gambling on certain days and making certain gambling houses legal. Further, the Sikkim Online Gaming (Regulation) Rules, 2009 are framed under Section 23 of the 2008 Act. Rule 3 of these Rules, read with the Sikkim Online Gaming (Regulation) Amendment Act, 2009, provides that the following games may be operated and played under a license obtained from the State Government:

(i) Roulette (ii) Black Jack (iii) Pontoon (iv) Punto Banco (v) Bingo (vi) Casino Brag (vii) Poker (viii) Poker Dice (ix) Baccarat (x) Chemin-de-for (xi) Backgammon (xii) Keno (xiii) Super Pan 9 (xiv) sports betting on games, which involve prediction of the results of the sporting events and placing a bet on the outcome, either in part or in whole, of such sporting event, and including football, cricket, lawn tennis, Chess, gold, horse-racing, etc.

The Government of Sikkim, however, restricted the offering of “online games and sports games” to the physical premises of ‘gaming parlours’ through intranet gaming terminals within the geographical boundaries of the State, by enacting the Sikkim Online Gaming (Regulation) Amendment Act, 2015.[1]

[1] Law Commission Report 276th, (2018).

- **Nagaland** - *The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016 & Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Rules, 2016.*

The Nagaland Act is the only legislation in India, defining– under Section 2(3) the term, “Games of Skill”, to “include all such games where there is **preponderance of skill** over chance, including where **the skill relates to strategizing** the manner of placing wagers or placing bets or where the skill lies in team selection or selection of virtual stocks based on analysis or **where the skill relates to the manner in which the moves are made**, whether **through deployment of physical or mental skill and acumen.**”

- **Telangana**- *The Telangana Gaming Act, 1974*

The Telangana Gaming (Amendment) Act, 2017 amended the Act of 1974 introducing the changes with object and purpose of implementing “the policy of zero tolerance against gambling which has serious impact on the financial status and well-being of the common public”.

- **Delhi** – *Delhi Public Gambling Act, 1955*
- **Assam** – *Assam Game and Betting Act, 1970 & The Public Gambling (Extension to Mizo District) Act, 1962*
- **West Bengal** - *West Bengal Gambling & Prize Competition Act, 1957*
- **Karnataka** - *Karnataka Police Act, 1963*

In the matter of Dhiraj Kumar Vs State Of Karnataka,[1] the Petitioner prayed for quashing the entire proceedings of Criminal Case No. 3838/2017 and thereby questioned the raiding of “Winners Recreational Club” for playing the game of Ludo and against the offences registered against the Petitioner along with others under Sections 79 and 80 of the Karnataka Police Act, 1963. In the said matter, the High Court while giving an opportunity to the prosecution to prove that Ludo was a game of Pure Chance, stated that the charge sheet filed had some details pertaining to the manner in which the game of Ludo was played and as to how the game of Ludo was purely a game of chance. The High Court left it to the Trial Court to adjudicate upon the matter. The High Court, held as follows:

*“Though details have not been given, it is sufficient at this stage that **some explanation is given as to how that game is played** and therefore, an opportunity should be given to the prosecution to explain during the course of trial as to whether it is a pure game of chance or whether any skill is required. Therefore, I do not want to give any final finding so far as this aspect is concerned. It is left to the jurisdiction of the Trial Court on the basis of evidence to take appropriate decision in this regard. However, the said ground taken up before this Court is not sufficient at this stage to quash the proceedings.”*

[1] CRL.P 2183/2018

The matter is still pending in the trial court of the JMFC IV Court, Mangalore in C.C 3850/ 2017. The matter is to be heard next on 07.05.2021.

In the same set of facts and circumstances, another petition was filed before the High Court by one Mohammad Haneef (Criminal Petition No.2184/2018), wherein the Karnataka Police while raiding the “Winners Recreational Club” had found the Petitioner playing the game of “Andar-Bahar.” An offence was similarly registered against him along with others under Section 79 and 80 of the Karnataka Police Act, 1963. However, unlike the charge sheet in the previous matter wherein the manner in which the game of Ludo was played was explained, this charge sheet failed to lay out the methodology of the game “Andar-Bahar” and how the said game was a game of pure chance and not skill. The High Court accordingly observed as follows:

*“But **it is not stated anywhere in the above said charge sheet as to how the 'Andar-Bahar' or 'Ulaayi-Pidaayi' game was being played by the people and how it exactly amounts to a game of chance.** Except stating that, the people were playing 'Andar-Bahar' game, nothing has been elucidated in the entire charge sheet papers so as to come to a definite conclusion that, the said game is a pure game of chance and not a game of skill. Though the Police have investigated the matter on the basis of the orders passed by the learned Magistrate, but the contents of the charge sheet do not make out a case for the offences under Sections 79 and 80 of the Karnataka Police Act.”*

Stating the same, the High Court quashed the said petition. While doing so, the High Court also cited the matter of *Eranna and Others Vs State of Karnataka*[1] wherein the High Court of Karnataka had held that *"unless the prosecution proves how the game of 'Andar-Bahar' is played and in what manner the bettings are recorded, it could not be inferred that it was a pure and simple game of chance and not a game of skill."*

The above presents that Ludo was perceived as a game of chance by the concerned law-enforcement authorities leading to initiation of criminal proceedings against the accused. It must be specified that it has also been alleged in the said matter that the accused were engaging in playing Ludo for stakes. Pertinently, the said matter is pending consideration before the concerned Trial Court till date with the record of proceedings indicating that the same is still at nascent stages of proceedings.

[1] 1977(1) KLJ 274

- **Andhra Pradesh** – The Andhra Pradesh Gaming Act, 1974 and Andhra Pradesh Gaming Rules, 1976.
- **Odisha**– The Orissa Prevention of Gambling Act, 1955.
- **Pondicherry** – Pondicherry Gaming Act, 1965.
- The above presented legislative framework is marred with not only being State-specific but also poses challenges in terms of conflicting interpretations in relation to applicability of laws across the geography of India. In view thereof, it becomes pertinent to take note of the jurisprudence wherein the key-aspects of the above-said laws have been interpreted by Indian Courts, as presented in the following Chapter.



Introduction

1. Additionally, this is the appropriate juncture to ascertain whether the States actually have any legislative powers in respect of gaming activities falling outside the ambit of “betting and gambling”. The State legislature is empowered to make laws on the subject of Betting and Gambling as per List II Entry 34 of the 7th schedule. Entry 34 of List II covers only game of chance and does not cover games of skill as the game of skill does not come under the ambit of betting or gambling as appreciated by the Hon’ble Supreme Court of India in the case of ***R.M.D. Chamarbaugwala v. Union of India***^[1] wherein it was held that the games where there was a certain level of skill involved, wouldn’t be considered gambling.
2. When a game of skill is played with real money, it will not be treated as gambling as it can be interpreted that, a competition that substantially depends on skill is not gambling. Gambling means staking on chance where chance is the controlling factor. Therefore, it means that wagering or betting on games of chance is gambling and would not include games of skill.
3. The Public Gambling Act, 1867 does not apply to the game of skill as the Act specifically excludes the game of skill from the purview of the Act.
4. The present report has dealt with this analysis in detail and observed that by the virtue of Article 248 read with Entry 97 List I residuary powers are provided to the Parliament of India to make rules or regulation on such laws which are not specifically mentioned in any of the Lists in Schedule VII.
5. It is concluded that Parliament is the appropriate authority that can make laws on the game of skill.
6. However, certain states such as Assam, Orissa, and Telangana that have banned both the game of skill and game of chance that is played with real money, by bringing them within the ambit of betting and gambling.

The Constitution of India has under Article 248, enshrined and conferred residuary power to the Union of India in terms of formulating laws pertaining to those specific items which have not been enumerated either under the State or Concurrent List. It is in this regard pertinent to note that Ludo, being a game of skill, ipso facto involves an integral element of skill and since, the State List does not have a specific item or entry pertaining to regulating “Skill” or “Games of Skill”, it cannot formulate or promulgate a law for either banning or even regulating such activities. Under such circumstances, it is the Union of India who has the power to regulate such gaming or skill by virtue of the power conferred upon it under Article 248 of the Constitution of India.

[1] 1977(1) KLJ 274

In this regard, it becomes essential to evaluate what the judicial minds of India have observed and regarded while contemplating upon the power given to the Union under article 248 of the Constitution of India.

In the case of **State of W.B v. Kesoram Industries Ltd**[1] at para 31 page 281, it was observed by the Hon'ble Supreme Court that;

“Article 245 of the Constitution is the fountain source of legislative power. It provides - subject to the provisions of this Constitution. Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State. The legislative field between the Parliament and the Legislature of any State is divided by Article 246 of the Constitution. Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in Seventh Schedule, called the 'Union List'. Subject to the said power of the Parliament, the Legislature of any State has the power to make laws with respect to any of the matters enumerated in List III, called the 'Concurrent List'. Subject to the abovesaid two, the Legislature of any State has exclusive power to make laws with respect to any of the matters enumerated in List II, called the 'State List'. Under Article 248 the exclusive power of Parliament to make laws extends to any matter not enumerated in the Concurrent List or State List.”

Further, in **State of Karnataka v. Union of India**,[2] the Hon'ble Supreme Court observed as follows;

“96. In Union of India v. H.S. Dhillon [(1971) 2 SCC 779 : (1972) 2 SCR 33] , Sikri, C.J., after discussing the tests adopted both in India and in Canada for determining whether a particular subject falls within the Union or the State list observed: (at p. 51) (SCC pp. 791-92) “It seems to us that the function of Article 246(1), read with Entries 1-96, List I, is to give positive power to Parliament to legislate in respect of these entries. Object is not to debar Parliament from legislating on a matter, even if other provisions of the Constitution enable it to do so. Accordingly, we do not interpret the words “any other matter” occurring in Entry 97 List I to mean a topic mentioned by way of exclusion. These words really refer to the matters contained in each of the Entries 1 to 96. The words “any other matter” had to be used because Entry 97 List I follows Entries 1-96 List I. It is true that the field of legislation is demarcated by Entries 1-96 List I, but demarcation does not mean that if Entry 97 List I confers additional powers we should refuse to give effect to it. At any rate, whatever doubt there may be on the interpretation of Entry 97 List I is removed by the wide terms of Article 248. It is framed in the widest possible terms. On its terms the only question to be asked is: Is the matter sought to be legislated on included in List II or in List III or is the tax sought to be levied mentioned in List II or in List III? No question has to be asked about List I. If the answer is in the negative, then it follows that Parliament has power to make Laws with respect to that matter of tax.”

[1] (2004) 10 SCC 201.

[2] (1977) 4 SCC 608.

Furthermore, in the case of **Union of India v. Shri Harbhajan Singh Dhillon**^[1], the Hon'ble Supreme Court has laid emphasis on the real essence and functionality of residuary power under the Indian Constitution and observed as follows:

*“The expression “any matter not enumerated in the Concurrent List or State List” in Article 248 must mean, in the context of Clause (1) of Article 246, which gives Parliament exclusive power in respect of matters in List I. any matter other than those enumerated in any of the three Lists. The residuary power given to Parliament in Article 248 cannot include power which is exclusively given to Parliament on matters in List I already conferred under Clause (1) of Article 246 so that any attempt to distinguish the words “any matter” in Article 248 and “any other matter” in entry 97 in List I is a distinction without a difference. There had to be a difference in language in the two provisions in the context of the content of entry 97 as that entry speaks about matters other than those enumerated before in List I and those enumerated in the other Lists. Notwithstanding the fact that the residuary power has been vested in the Central Legislature under Article 248 and its consequence translated in entry 97 in List I, there can be no gainsaying that the idea was to assign such residuary power over matters which at the time of framing the three Lists could not be thought of or contemplated. This is clear from the fact, as pointed out by counsel, that the Lists contain as many as 209 matters which are couched in careful and elaborate words with inclusive and excluding language in the case of some, which has made the Constitution, to use the words of Gwyer, C.J., in *In re the C.P. & Berar Act No. XIV of 1938*, [1939] F.C.R. 18, at 38 “unique among federal Constitutions in the length and detail of its legislative Lists”. In the layout of such elaborate worded matters in the Lists and the context of Article 246(1), the residuary power contained in Article 248 and entry 97, List I must be construed as a meaning power in respect of matters not enumerated in any of the three Lists. Such a residuary power cannot, therefore, be ordinarily claimed in respect of a matter already dealt with under an Article or an entry in any one of the three Lists anything not included in List II or List III.”*



[1] AIR 1972 SC 1061.

Skill vis-à-vis Entry 34 of List II

- It is pertinent to note that Entry 34 of List II empowers the State Government to make laws on “betting and gambling” in respect to their particular territories and jurisdictions. Many States like Rajasthan, Meghalaya, Goa, Sikkim, Tamil Nadu, etc. have enacted their separate and individual state laws prohibiting the gambling and betting by repealing the central Public Gambling Act of 1867. However, certain states and Union territories such as Madhya Pradesh[1], Manipur[2], Himachal Pradesh[3], etc. have adopted the central gambling act. This option of choosing whether to adopt the central act or formulate their state specific act is available to states by virtue of Entry 34 of List II which provides for states to make their own laws on “betting and gambling”. However, it becomes imperative to note in this regard that Entry 34 of List II does not mention “Skill” or “Games of Skill” and therefore, does not provide special powers to State to promulgate a legislation regulating a game of skill. Therefore, as established earlier in Part - B, the game of Ludo involves a material degree of skill and by virtue of that falls outside the ambit of “betting and gambling” and cannot be therein regulated by the State Legislations.

The Supreme Court has authoritatively laid down in the case of **State of Bombay v. Chamarbaugwala**[4] that a competition that substantially depends on skill is not gambling. Also, in the **case of K.R. Lakshmanan Horse-Racing Case**[5], it was noted that;

“A game of skill, on the other hand - although 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.”

Further, in **Babu Bhai and Ors. v. State of Rajasthan and Ors.**[6] it was noted that

“[...] the person playing must have an aptitude and must have a certain amount of experience and expertness in the play of the particular game.”

In lieu of the above-mentioned, it can be rightly stated that a game of skill is not gambling or betting and would therefore, fall outside the purview of the rules and regulations governing the same. Thus, Ludo being one such game, where the element of skill predominates that of a chance, falls outside the regulations governing gambling or betting, as it is a game of chance.

Therefore, by observing the above-said analysis and a bare perusal of the Entry 34 of List II, it can be rightly stated that as List II is silent on the aspect of “game of skill”, the State government cannot legislate on games involving “skill” as these games are not encompassing any element of “gambling or betting”.

[1] Public Gambling (Madhya Pradesh Amendment) Act, 1976.

[2] The Public Gambling Act, 1867 (Manipur).

[3] The Public Gambling (Himachal Pradesh Amendment) Act, 1976.

[4] AIR 1957 SC 699.

[5] Dr. K.R. Lakshmanan vs State Of Tamil Nadu And Anr., 1996 SCC (2) 226.

[6] 1998 CriLJ 565.

Skill vis-à-vis Entry 97 List I

In a circumstance, when there is no item enumerated in either of the three lists i.e., Union List, State List or Concurrent List, the Union has been conferred special residuary powers to legislate on such matters. The essence of this authority and power has been enshrined under Article 248 read with Entry 97 of List I. Entry 97 in List I (Union List) reads as follows “Any other matter not mentioned in List II or List III including any tax not mentioned in either of those lists” and Article 248 grants exclusive power to the Parliament to make laws for subjects not mentioned in either State or Concurrent List.

The power and meaning of these have been deliberated upon by the Judiciary of India in order to understand the same for the better applicability of these.

In the case of **Jagannath Baksh Singh v. State of U.P[1]**, the court while analyzing the authority of State Government to prevent sale of or dealings in tickets of State Lotteries in the Union of India in so far as such sales or dealings take place within the territory of the State of Maharashtra., has observed that;

“...it is an elementary cardinal rule of interpretation that the words used in the Constitution which confer legislative power must receive the most liberal construction and if they are words of wide amplitude, they must be interpreted so as to give effect to that amplitude. It would be out of place to put a narrow or restricted construction on words of wide amplitude in a Constitution. A general word used in an entry like the present one must be construed to extend to all ancillary or subsidiary matters which can fairly and reasonably be held to be included in it”.

Further, In the case of **M/s. International Tourist Corporation v. the State of Haryana[2]**, the Hon’ble Supreme Court observed the following;

“...Before exclusive legislative competence can be claimed for Parliament by resort to the residuary power, the legislative incompetence of the State legislature must be clearly established. Entry 97 itself is specific that a matter can be brought under that entry only if it is not enumerated in List II or List III and in the case of a tax if it is not mentioned in either of those Lists. In a Federal Constitution like ours where there is a division of legislative subjects but the residuary power is vested in Parliament, such residuary power cannot be so expansively interpreted as to whittle down the power of the State Legislature. That might affect and jeopardize the very federal principle. The federal nature of the Constitution demands that an interpretation which would allow the exercise of legislative power by Parliament pursuant to the residuary powers vested in it to trench upon State legislation and which would thereby destroy or belittle State autonomy must be rejected . . .”

[1] 1963 SCR (1) 220

[2] 1981 SCR (2) 364

In the case of **Attorney General for India v. Amratlal Prajivandas**[1], the Hon'ble Supreme Court made the following observation;

“Where the legislative competence of Parliament to enact a particular statute is questioned, one must look at the several entries in List II to find out (applying the well-known principles on this behalf) whether the said statute is relatable to any of those entries. If the statute does not relate to any of the entries in List II, no further inquiry is necessary. It must be held that Parliament is competent to enact that statute whether by virtue of the entries in List I and List III or by virtue of Article 248 read with Entry 97 of List I.”

Further in the case of **Kamal Agency and Ors. v. State of Maharashtra**[2], it was observed by the Hon'ble Supreme Court that:

“Lottery depends purely on chance and involves no skill of knowledge. It is, therefore-gambling. The above two 'entries therefore overlap to the extent that the lotteries mentioned in the above Entry 34. Article 246 confers on the Union Parliament exclusive power to legislate in respect of entries in List I which would include lotteries organized by a State. On the basis of the ratio laid down by the Supreme Court in Gujarat University v. Shri Krishna, when there is such overlapping between the entries in List I and List II, the power conferred on the Union Parliament under any entry in List I must prevail over the power of a State Legislature under any entry in List II. Therefore, the power of a State to legislate in respect of gambling would not include a power to legislate in respect of a lottery organized by a State. The power to legislate in respect of the latter vests exclusively in the Union Parliament.”

In **State of Karnataka v. Union of India**[3], the Hon'ble Supreme Court held that:

*“97. It will be seen that the test adopted in Dhillon case was **that if a subject does not fall within a specifically demarcated field found in List II or List III it would fall in List I apparently because of the amplitude of the residuary field indicated by Entry 97, List I. Legislative entries only denote fields of operation of legislative power which is actually conferred by one of the articles of the Constitution. It was pointed out that Article 248 of the Constitution conferring legislative power is “framed in the widest possible terms”**. The validity of the Wealth Tax Act was upheld in that case. The argument that a wide range given to Entry 97 of List I, read with Article 248 of the Constitution, would destroy the “federal structure” of our Republic was rejected there. On an application of a similar test here, the powers given to the Central Government by Section 3 of the Act, now before us, could not be held to be invalid on the ground that the federal structure of the State is jeopardized by the view we are adopting in conformity with the previous decisions of this Court.”*

[1] AIR 1994 SC 2179

[2] AIR 1971 Bom 332

[3] (1977) 4 SCC 608

Further in ***State of W.B v. Kesoram Industries Ltd***[1], it was observed by the Hon'ble Court that;

“Once it is held that the State lacks legislative competence for imposition of tax on any of the subject, indisputably the Parliament alone will have legislative competence therefore.”

*“The decisions of this Court, therefore, also lead to the conclusion that **in case the State for one reason or the other lacks legislative competence, the court must proceed on the basis that Parliament alone has the legislative competence** and it would not be permissible to uphold the State Act by leaning in favor of the State or by giving a broader meaning to the entry in List II relating to the subject matter of legislation.”*

In Lieu of the above-mentioned judicial pronouncements, it is gathered that where List II is silent on any subject matter and neither such subject is enumerated under List I or in List III, then the Parliament alone can make laws on such subject by virtue of powers conferred upon it under Article 246 read with List I Entry 97 as the same are enforced in form of residuary power of the Parliament.

Further, it has been established in plethora of judgments[1] that whenever a game involves substantial degree of skill then that game must be construed as a game of 'skill' and by virtue of it being a game of skill, the game is not to be classified as gambling or betting and ipso facto falls outside the ambit of the gambling acts of the concerned State or UT.

The above-said understanding has been appreciated and followed by most states and respective High Courts in India[2], there are however some states wherein, their Hon'ble High Courts have ruled that playing a certain game of skill with stakes involved must be construed as “Gambling”.[3]

The present report has substantively established in the below Chapter IV to Part B that Ludo is a game of skill and not a game of chance by observing that the elements of the game of skill are present in the game of Ludo and are substantively pre-dominant than that of chance.

Hence, the Parliament is the only authority empowered to make laws or regulations governing any game involving skill and the state does not have any power to enact laws on game of skill. However, in a circumstance that State tries to regulate such by enacting a law, then that would be the violation of constitutional provisions and ought to be declared null and void.

[1] (2004) 10 SCC 201

[2] *ibid*

[3] D. Krishna Kumar v. State of Andhra Pradesh, 2003 CR LJ 143, ...Therefore it is for the legislature to intervene and amend the Act, laying down that playing Rummy with stakes would also be 'gaming' within the meaning of the Act...”;D.Siluvai Venance v. State, MANU/TN/3677/2020“...(2) In the event rummy is played by the members or the guests without stakes, the provisions of the Chennai City Police Act are not attracted.(3) In the event rummy is played by the members or the guests with stakes, the provisions of the Chennai City Police Act are attracted...”; Play Games 24X7 Private Limited and Ors. Vs Ramachandran K. and Ors, MANU/KE/4158/2019; “...If it is just playing rummy without any side betting, the notification protects the parties involved in it. But, in a case where rummy is played for stakes, the issue might be different which has to be dealt with on a case to case basis ...”

CHAPTER III: LEGAL PRINCIPLES IN INDIAN JURISPRUDENCE ON CHANCE, SKILL, AND STRATEGY



- As evinced from the analogy presented in Chapter-I, the Indian law demarcates skill-based games and chance-based games. Upon defining the character of a game, the legal and regulatory consequences can be determined. However, the above-mentioned Acts do not provide any specific mechanism to definitively distinguish between a game of chance from a game of skill and vice-versa. In view of the same, we need to turn to the Indian Jurisprudence which has in this context vide various judgments given insights into determining elements of games; and the same have been categorically presented in the present Chapter.
- The Supreme Court has in *K.R. Lakshmanan v. State of Tamil Nadu &Anr.*[1] (herein-after referred to as K.R. Lakshmanan Horse-Racing Case) defined a game of skill as follows:

*“Gambling in a nut-shell is payment of a price for a chance to win a prize. Games may be of chance, or of skill or of skill and chance combined. A game of chance is determined entirely or in part by lot or mere luck. **The throw of the dice, the turning of the wheel, the shuffling of the cards, are all modes of chance.** In these games the result is wholly uncertain and doubtful. **No human mind knows or can know what it will be until the dice is thrown,** the wheel stops its revolution or the dealer has dealt with the cards.”*

“A game of skill, on the other hand - although the element of chance necessarily cannot be entirely eliminated - is one in which success depends principally upon the superior knowledge, training, attention, experience and adroitness of the player. Golf, Chess and even Rummy are considered to be games of skill. The courts have reasoned that there are few games, if any, which consist purely of chance or skill, and as such a **game of chance is one in which the element of chance predominates over the element of skill, and a game of skill is one in which the element of skill predominates over the element of chance. It is the dominant element - "skill" or "chance" - which determines the character of the game.**”

[1] K.R. Lakshmanan v. State of Tamil Nadu &Anr. AIR 1996 SC 1153

- The Hon'ble High Court of Bombay in *The State Of Maharashtra and Anr. v. Bennett Coleman & Co. Ltd.* and Anr identified two elements needed to be considered in order to determine whether the Prize Competitions Act 1955, would apply to a competition by noting as below:

“17. In order to decide whether the Act applies to a competition, two things are therefore to be considered: **(1) whether it involves the exercise of skill, and (2) whether success in it depends to a substantial degree upon the exercise of skill.** Mere use of skill is therefore not sufficient to take a competition out of the scope of the Act. **It must also be shown that success in it depends substantially upon the use of skill.** At the same time a competition will not cease to be a competition involving skill, merely because success in it may also be obtained by chance or, as was aptly stated by Mr. Palkhivala, because chance has also a chance of success. It may also be noted that **what is to be considered is not whether the competition involves substantial skill, but whether success in it is substantially due to skill.**”

The High Court went on to cite several foreign judgments wherein the concept of chance and skill has been defined in respect of gambling. One such judgment cited was that of *Scott v. Director of Public Prosecutions* wherein Atkin J. while differentiating an act from lottery, held as follows:

“[...] **not only literary skill, but any kind of skill or dexterity, whether bodily or mental, in which persons can compete, would prevent a scheme** from being a lottery, if the result depended partly upon such skill or dexterity-In this case, therefore, it was again laid down that **a compensation is not a lottery, if merit or skill plays any part in it.**”

- The concept of skill was further elaborated in the matter of *Gaussian Network Pvt. Ltd v. Ms. Monica Lakhanpal*, wherein the Delhi District Court defined the term “skill” as follows:

“Skill is defined merely as an exercise upon known rules and fixed probabilities of sagacity, which in turn is defined as **quickness or acuteness of sense perception; keenness of discernment with soundness of judgments; shrewdness and the ability to see what is relevant and significant.**
It involves: a) a learned or a developed ability; b) Strategy; c) Physical coordination; d) Technical expertise and e) Knowledge.”

The Court also gave an insight into a game of skill by defining it as follows:

“A game of skill is one where the outcome is determined mainly by the mental or physical prowess, rather than by Chance. Though there is hardly a game which does not involve a certain degree of chance which may be due to natural aspects of environment, bluffing or other psychological warfare, in games involving Skill there should be a predominance of Skill over Chance.”

[1] AIR 1964 Bom 213

[2] (1914) 2 KB 888

- Further the Hon'ble Supreme Court has in *Pleasantime Products v. Commissioner of Central Excise, Mumbai*[1] observed the elements of games on the basis of which chance may be developed, as below:

*"18. The word "game" in commercial sense means an article or apparatus used in playing games. According to Words and Phrases, Permanent Edition, the word "game" also defines, in certain context, instrumentalities used in playing them. According to Stroud's Judicial Dictionary, a "game" is a form of a play or sport especially a competitive one, played according to rules and decided by skill and chance. According to Words and Phrases, Permanent Edition, **the instruments by which chance may be developed and upon which skill may be exercised are also games - such as cards, dice, balls, figures, letters, checks etc.** Therefore, in a game there is a trial of skill or chance between two or more contesting parties according to some rule(s) by which one may succeed or fail. It is a contest for success, for a trial of chance or skill and it embraces every contrivance which has for its object sport, recreation or amusement."*

The Indian Courts have identified chance more in terms of "luck" than elements contributing to "randomness" in a particular game. Holding that the game of Poker was a "Game of Chance" the High Court of Andhra Pradesh in *Cherupu Venkata Varaha Narasimham v. State of Andhra Pradesh*[2], noted the observations in *Dalton v. Adelphi Club, Ltd.*[3], wherein it was held as follows:

"Whatever the degree of skill an experienced player at stud poker may acquire, that game as described in the case must always remain a game of chance, and, in the language of Hawkins J., with regard to baccarat, it would be a perversion of words to say that it was in any sense a game of mere skill."



[1] K.R. Lakshmanan v. State of Tamil Nadu &Anr. AIR 1996 SC 1153

[2] MANU/AP/0133/1968

[3] (1938) All E R 556

- Deciding upon whether the game of Rummy is a game of skill, the Supreme Court in the landmark matter of *State of Andhra Pradesh v. K. Satyanarayana & Ors*^[1] noted that the game of Rummy despite being played with cards and in manner that induces chance in the gameplay, the same is however predominantly a game of skill. The Court noted as below:

“The game of Rummy is not a game entirely of chance like the 'three-card' game mentioned in the Madras case to which we were referred. The 'three card' game which goes under different names such a 'flush', 'brag' etc. is a game of pure chance. Rummy, on the other hand, requires certain amount of skill because the fall of the cards has to be memorized and the building up of Rummy requires considerable skill in holding and discarding cards. We cannot, therefore, say that the game of Rummy is a game of entire chance. It is mainly and preponderantly a game of skill. The chance in Rummy is of the same character as the chance in a deal at a game of bridge. In fact, in all games in which cards are shuffled and dealt out, there is an element of chance, because the distribution of the cards is not according to any set pattern but is dependent upon how the cards find their place in the shuffled pack. From this alone it cannot be said that Rummy is a game of chance and there is no skill involved in it. Of course, if there is evidence of gambling in some other way or that the owner of the house or the club is making a profit or gain from the game of Rummy or any other game played for stakes, the offence may be brought home.”

The Court also held that even if Rummy is played for stakes the same would amount to an offence, under the Hyderabad Gambling Act (2 of 1305F), which has been superseded by the Andhra Pradesh Gaming Act 1974, which interestingly – as interpreted by the Andhra Pradesh High Court in *D. Krishna Kumar v. State of Andhra Pradesh*^[2] - prescribes that “Games of Skill” like rummy, even when being played for stakes, are outside the ambit of the Andhra Pradesh Gaming Act, 1974. The High Court specifically noted as below:

“...it is for the legislature to intervene and amend the Act, laying down that playing Rummy with stakes would also be ‘gaming’ within the meaning of the Act. So, till such time as the Act is amended laying down that playing Rummy with stakes is “gaming”, playing Rummy with stakes is not ‘gaming’ within the meaning of the Act.”

The above landmark judgments in a nutshell present the understanding of the Indian Judiciary in respect of games of skill and games of chance. It is important to note that the elements of skill and elements of chance as identified in the above-said judgments present strategy as a component of skill in determining whether a game qualifies as a game of chance or a game of skill.

[1] AIR 1968 SC 825.

[2] 2003 Cr LJ 143

- To understand the role of strategy in determination of game as that of game of chance or a game of skill, reference can be drawn from the definition of game of skill as incorporated in Section 2(3) of Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015, the relevant portion whereof is quoted herein-below:

*“iii. Games of skill may be (a) Card based and (b) action/ virtual sports/ adventure/ mystery and (c) calculation/**strategy**/quiz based”*

- For the sake of conceptual clarity reference is drawn from the Oxford Dictionary[1] which defines Strategy as “*a plan that is intended to achieve a particular purpose*”. To better understand the relevance of strategy, the construct in terms of “success” (as mentioned in *K.R. Lakhsmanan Horse-Racing Case*) as being the result which is determined upon employment of chance or skill, it is understood that strategy is the game plan employed to achieve the desired outcome.
- Further, in *Babu Bhai and Ors. Vs. State of Rajasthan and Ors.*[2] the High Court of Rajasthan decided upon whether the game of Arrow Dart was a skill based or chance-based game. The High Court while holding that the game of Arrow Dart was indeed a game of skill held as follows:

*“In this particular case, there can be no doubt, I think, that the **likelihood of success is well within the control of any particular player, provided he possesses the necessary skill.** No doubt success would demand a high degree of skill or at any rate what is generally described as **knack** which is only another way of saying that the person playing must have an **aptitude and must have a certain amount of experience and expertness in the play of the particular game.** Here it is clearly possible for a person with sufficient expertness to hit any particular square or at any rate a line of squares. I say line of squares because the colors were arranged in lines drawn diagonally. There is nothing in the playing of the game which could not be foreseen and anticipated. **The players in the game so far as any outside circumstance or fortuitous factors are concerned, are masters of the situation.** If one seeks a criterion upon the question whether the game is one of mere skill or not. I think one can only say that the real test is: is there any external thing or fortuitous circumstance which may interpose between the action of the player and the result to be attained, are the media or instruments of the operation all ascertained the moment the game begins. As I have already said that it is undoubtedly the case that in this particular game there was a possibility and indeed probability that a player might be unwillingly successful by hitting a line of the color selected other than the particular line which he intended or was supposed to aim at. **But on the other hand, as I have already said it was undoubtedly possible for the person with the requisite skill to hit the actual point on the target selected by him beforehand. Accordingly giving the words 'mere skill', a reasonable construction and not interpreting the qualifying adjective, the word 'mere' as if it meant pure in the sense in which that word might be used in a scientific experiment.**”*

[1] Oxford Dictionary, Available at: <https://en.oxforddictionaries.com/definition/strategy> (Last accessed on 25.03.2021)

[2] 1998 CriLJ 565

Test of Preponderance

- The Supreme Court has in the K.R. Lakshmanan Horse-Racing Case, noted that:

“20 ... (i) the competitions where success depends on substantial degree of skill are not 'gambling' and (ii) despite there being an element of chance if a game is preponderantly a game of skill it would nevertheless be a game of "mere skill". We, therefore, hold that the expression "mere skill" would mean substantial degree or preponderance of skill.”

Upon studying the above, it is ascertained that the Hon'ble Supreme Court has reasoned that there are few games, if any, which consist purely of chance or skill, and as such a game of chance is one in which the element of chance predominates over the element of skill, and a game of skill is one in which the element of skill predominates over the element of chance.

- Further, differentiating a “Game of Skill” from a “Game of Chance”, the High Court of Madras in *D.Siluvai Venance v. State*[1], held as follows:

“24. There has been a substantial discussion by the Hon'ble Supreme Court as well as by the High Courts around the Country as to what constitutes a “game of skill” and a “game of chance” and it has been held that where there is substantial degree of preponderance of skill over chance, it is a “game of skill” and vice versa. To be precise, a game of skill is one which involves application of mind, technique and experience by the player, which may include studying the rules, creating strategies, etc.”

Where does the Indian jurisprudence stand on classifying Ludo as a Game of Skill or a Game of Chance?

- The closest that Indian jurisprudence has come to identifying the game of Ludo as one of skill or chance, was noted in *M/s. Funskool (India) Ltd Vs. Commissioner of Central Excise, Panaji, Goa*[2]. The question before the Tribunal was whether each of the 31 items manufactured by the Assessee therein would stand covered by CSH 9504.90 as games as contended by the Revenue or by CSH 9503.00 as toy/puzzle as claimed by the Assesses.
- As per Harmonized System of Nomenclature (HSN) “Board & Dice” games are categorically classifiable under Heading No. 9504 which specifically mentions the game of “Snakes & Ladders”. Heading No. 9504 of HSN basically defines “games” as “competition games and games for “gambling purposes” such as “dog-eat-dog; cut-throat and aggressive” which are used by the children for recreation, joy, entertainment and education and would not fall under Heading 9504.”

[1] MANU/TN/3677/2020

[2] 2014 SCC OnLine CESTAT 3312

- While deciding upon whether the list of games presented before the Tribunal were eligible for “Service Tax”, the Tribunal defined ‘Chip and Dale’ as a game similar to Ludo by stating as follows:

“[...] in ‘Chip N Dale’, ‘Duck Tale Disney’, and ‘Rally’, the movement of playing pieces is decided purely by the outcome of dice/spinner which can be any number from 1 to 6 and thus the outcome of the game is dependent purely on chance and not on the skill of the player and in this regard, these games are like the games of ‘Ludo’ and ‘Snakes & Ladders’”

By the above statement, the Tribunal defined Ludo to be a game of chance rather than a game of skill and thereby describing it as “Gambling”.

However, the Tribunal failed to take into consideration that games involving elements of chance have been identified by the Hon’ble Supreme Court as being games of skill owing to the said games being mainly and preponderantly games of skill, such as in the case of the game of rummy. Moreover, the Tribunal neither relied upon identifying the features of strategy, adroitness, experience, or expertness which contribute to the facets of skills contributing towards the skill component of Ludo and neither did the Tribunal delve into an elemental discussion concerning online gambling.

Online Gambling

- Online Gaming/Gambling laws in India prohibit betting or wagering and any act which is intended to aid or facilitate the same. Gaming/Gambling being a State subject, gaming/gambling in India have laws which differ from state to state. This would mean what is permitted in one State may be an offence in another.
- The issue of Online Gaming/Gambling laws in India was discussed in detail in the matter of ***Gaussian Network Pvt. Ltd. Vs Monica Lakhanpal***^[1] wherein the issue was put up before the Court under Order 36 Rule(1) of CPC by the parties. The District Court of Delhi made the following observations:
 - Game of skills, if played with stakes does not amount to gambling;
 - Playing games of skill for money is only legal in the real form, online games cannot be compared to real games;
 - Attracting business or enticing players by alluring them with prize money is illegal;
 - Gaming sites partaking a slice on the winning hand are illegal as they amount to a virtual gambling house.

[1] Suit No 32/2012, Delhi District Court.

- The Court seems to have assumed that the degree of chance would increase in online gambling; and there was a possibility for manipulation of outcomes by cheating and collusion. This can be inferred from the Court holding as follows:

“In online gaming, various factors increase the degree of Chance and the predominance of Skill over Chance is questionable. Various manipulation including the randomness, inside cheating, collusion cannot be ruled out. A question does come to mind, that if betting on a game of Skill played in the Real form is legal, why would it be illegal Online? An argument may be advanced that what is legal off line should be legal online as well. To answer this, a crucial factor, and perhaps the most determining one which has to be considered, is the role of the service provider offering various games (even those acknowledged as games of Skill) on payment of money. There are various sites which offer games of Skill online, free of charges. There is no illegality involved. But when the service provider partakes a slice of the winning component, it is no better than a gaming house which are illegal.”

- Having said that, the said ruling was rendered infructuous as during the final arguments in the Revision Petition, parties sought to withdraw the petition. Accordingly, the observations made by the Trial Judge in its order dated 17.09.2012 i.e., in Suit No. 32/2012 titled as “Gaussian Network Pvt. Ltd. Vs. Monica Lakhanpal &Anr” no longer survive.
- In the matter of *Play Games 24X7 Private Limited and Ors. Vs Ramachandran K. and Ors*[1], the Kerala High Court recently held that Rummy Circle (online rummy) did not amount to gambling. Also note that the Kerala laws do not treat rummy as gambling if no side-betting is involved, which means that courts in other states may not take the same view. However, the Kerala High Court dismissed the petition, and held that whether playing Rummy for stakes or not (including online Rummy) would amount to a violation of the Kerala Gaming Act, 1960 would have to be seen on a case-to-case basis.



[1] MANU/KE/4158/2019

- Furthermore, it was stated that the game of Rummy is exempted from the purview of the Kerala Gaming Act, 1960, however, whether playing it with stakes would amount to an offence or not shall depend on various factors such as the manner in which the game is conducted and how it is being conducted through online methods, the stakes involved therein, etc. Therefore, the decision over such an issue would vary from case to case. The Court noted as follows:

“There is no dispute about the fact that in view of the notification, playing rummy is excluded from the provisions of the Act and in the impugned judgment the Division Bench has also held that the element of skill is predominant than the element of chance. But the question is whether if rummy is played for stakes, will it amount to violation of the provisions of the Gaming Act or not. We are of the view that this aspect of the matter has to be decided on a case-to-case basis. What is the manner in which the games are conducted and how it is being conducted through online methods and what are the stakes involved in the matter are all issues which may arise for consideration. If it is just playing rummy without any side betting, the notification protects the parties involved in it. But, in a case where rummy is played for stakes, the issue might be different which has to be dealt with on a case-to-case basis.”

- In 2012 (22nd October, 2012) the Madras High Court in the matter of Director General of Police, Chennai v. Mahalakshmi Cultural Association held that rummy played with stakes would amount to gambling. The Inspector of Police, Chennai had raided the premises of the Association on the grounds that its premises was being used for gambling and that the members of the Association were playing Rummy with stakes in violation of the Chennai City Police Act. A case was accordingly registered against the Association. Aggrieved, the Association filed a writ petition before the Madras High Court seeking directions to forbear the police from, inter alia, interfering with the activities of the Association in any manner, including in relation to playing Rummy with or without stakes. The said writ petition was decided in favor of the Association by the single judge bench, on the grounds that rummy was a skill-based game and hence the activities were not illegal. Certain directions were also issued to the police in this case. The court relied on the Satyanarayana Case to arrive at this conclusion.
- The Inspector of Police, Chennai challenged this order before the two-judge bench of Madras High Court, wherein it was held that in the event a club / association allowed its members or guests to play rummy with stakes or make any profit or gain out of such play, the police would have the authority to invoke the provision of Chennai City Police Act, 1888 and penalize the Association.

- The following observations were therefore, made by the High Court:

“On the basis of the above discussions, we arrive at the following conclusions:

(1) The game of rummy (13 cards) is only a game of skill even though an element of chance is also involved.

(2) In the event rummy is played by the members or the guests without stakes, the provisions of the Chennai City Police Act are not attracted.

(3) In the event rummy is played by the members or the guests with stakes, the provisions of the Chennai City Police Act are attracted.

(4) In the event the Club/Association either allows its members or guests to play rummy with stakes or make any profit or gain out of such gambling, the Police has the authority to invoke the provisions of the Chennai City Police Act.

(5) In order to ascertain as to whether the premises is used as a gaming house for gambling, the Police is entitled to invoke Section 23 of the Act.”

The Supreme Court was seized of the matter by way of a Special Leave Petition filed by Mahalakshmi Cultural Association (“Association”). Certain online gaming websites (“Intervenors”) filed intervention applications on the apprehension that they would be subject to criminal prosecution like brick-and-mortar rummy providers. The Supreme Court dismissed the said petition due to the fact that the writ petition filed before the High Court of Madras was withdrawn by the Petitioner. The Special Leave Petition was thus held to be infructuous.

- Lastly, the **Nagaland Prohibition of Gambling and promotion and Regulation of Online Games of Skill Act, 2015** also legitimized offering games of skill such as online Poker and online Rummy. The order of the Delhi District Court, therefore would limit the rights of Gaussian even though it would be legal to offer such games under the Nagaland Act or West Bengal. The Counsel for Gaussian requested that the approach followed by the Supreme Court while dismissing the Mahalakshmi case be taken in the present scenario also. As mentioned above, in the Mahalakshmi case, petitioners sought permission for the withdrawal of the original writ petition filed before the Madras High Court and permission for the same was granted by the Supreme Court of India. Consequentially, the proceedings before the Supreme Court of India became infructuous and the observation of the Madras High Court does not survive. The High Court acceded to the request made by the parties and granted permission to withdraw the reference made before the Delhi District Court and the revision petition filed before the High Court. The observations of the District Court, thus, do not survive any longer.

- The Delhi High Court recently issued notice in a petition (W.P.(C) 9436/2020) seeking a direction to ban and prohibit all gambling, betting, wagering websites.[1] The Public Interest Litigation seeks issuance of directions to the Ministry of Finance to take steps to recover taxes due from both persons who played such online gambling, & more importantly, those who run & operate these websites. It also sought an appropriate writ, order or direction, directing the respondents to prosecute the unscrupulous owners/proprietors, & the promoters of the online gambling websites, in accordance with the law. The said matter is set for its next hearing on 22.04.2021.

Conclusion

Although judicial precedents have to an extent defined a “Game of Skill” and “Game of Chance” along with the consequences related thereof to the predominance of one over the other, they have not set a predetermined theorem or formula in order to determine the legality of a game on the basis of such predominance. The question whether a particular game should be defined as a “Game of Skill” or “Game of Chance” and whether the same shall be deemed as legal varies in accordance to the facts of the particular matter. The varying High Court and Supreme Court judgments on legality of games having predominance of skill over chance and the role played by skill, chance/luck and strategy in determining its legality, displays a lack of conclusive verdict and a need for clearer laws and jurisprudence over the issue.

[1] Avinash Mehrotra v. Union of India, Writ Petition (Civil) 483 of 2004

CHAPTER IV: DETERMINING ROLE OF CHANCE, SKILL, AND STRATEGY IN LUDO

- The present chapter seeks to identify methods of determining whether the game of Ludo qualifies as a game of chance or a game of skill. As observed in the above chapters, the Indian jurisprudence and even legislatures have identified strategy for a game as falling within the ambit of skill-set employed to succeed at the same, and thereby in the present chapter the role of strategy in Ludo has been analyzed in the segment concerning the role of skill in Ludo.
- At the very outset, the Indian jurisprudence does not, however, employ or even place reliance of any particular mathematically validated methodologies to classify a specific game as being one of chance or skill; rather the Indian jurisprudence has identified the “test of preponderance” and even the legislature of the state of Nagaland (as presented in Chapter I) bases its definition of “game of skill” on “***preponderance*** of skill over chance.”[1]
- The employment of test of preponderance by the Indian judiciary can be attributed to the lack of mathematical consensus in definitively arriving at conclusive theorem-based formulae, with universal applicability, to calculate the degrees of skill and chance in all games. While there have been numerous views and attempts at mathematically determining the degrees of skill and chance in games[2] and also at providing juridical tools[3] for the same, none of the methods have found their way into Indian jurisprudence, as yet. Further, authorship has also tested the so-called juridical tools by applying them to games falling within the “gray area.”[4] Importantly, the authorship identifying application of the juridical tools is rather limited in the context of Ludo, the game has been to an extent equated to that of Backgammon in view of the similarity in elements of both the games. For instance, the description of game-play of Backgammon and rules associated with the same starkly resemble those of Ludo.

[1] The 1991 Black’s Law Dictionary, 6th Abridged Edition 1891, defines ‘preponderance of evidence’ as “evidence which is on greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.”

[2] Duersch, Lambrecht, and Oechssler, Measuring skill and chance in games, March 7 2018 available at: https://www.uni-trier.de/fileadmin/fb4/prof/BWL/FIN/Veranstaltungen/duersch--Skill_and_chance_2018-03-07.pdf, (Last accessed on 19 April 2021)

[3] Peter Borm & Ben van der Genugton, On the Exploitation of Casino Games: How to Distinguish Between Games of Chance and Games of Skill?, in GAME PRACTICE: CONTRIBUTIONS FROM APPLIED GAME THEORY 19 (Fioravante Patrone et al. eds., 2000).

[4] Marc J. Ware and Joseph B. Kadane, Chance and Skill in Games: Electronic Draw Poker, Jurimetrics Vol. 43, No. 1 (FALL 2002), pp. 129-134 Published by: American Bar Association

For instance, *The Mathematics of Games and Gambling*[1] presents the following description of Backgammon, which is (barring obvious differences, such as employment of one dice in Ludo) identical to Ludo, as below:

“The object of the game is to move all of your pieces (you play as either white or black) around the board (see Figure 3.1) and into the six-pointed section that is your “home” and then to win by *bearing off* (removing all your pieces from the board) before your opponent does. Moves are made based on the number of spots rolled on each of two dice and you can move any one piece as many points as there are spots on one of your dice rolls. If you roll doubles, however, you may make four rather than two moves of the indicated number of spots. In addition to moving, you can *hit* an opponent if one of your pieces lands on a space occupied by a single opposing piece (known as a *blot*). Being hit forces the piece to retreat to the *bar*, from which, on subsequent turns, the piece must start over, entering through the opponent’s inner table. A board position or *point* becomes a *safe point* if two or more of a player’s pieces occupy it, in which case an opponent may not land on that point.”

- The thought leadership specific to Ludo also equates the state-space complexity of Ludo to Backgammon[2], by noting that: “*We found the Ludo state-space complexity to be approximately 1022 which is slightly larger than that of Backgammon, suggesting that the game is not solvable using current computational resources.*”

Role of Chance in Ludo

- Importantly, as discussed in the previous Chapter, the Supreme Court of India has identified dice as a device adding to the element of chance in any game. At the cost of reiteration, in *K.R. Lakshmanan Horse-Racing Case* the Court observed that: “The throw of the dice, the turning of the wheel, the shuffling of the cards, are all modes of chance. In these games the result is wholly uncertain and doubtful. No human mind knows or can know what it will be until the dice is thrown, the wheel stops its revolution or the dealer has dealt with the cards.” The employment of the device of dice is central to the game of Ludo and is the single significant contributor of chance.

[1] Chapter 3, *Backgammon and Other Dice Diversions in The Mathematics of Games and Gambling* by Edward W. Packel, Lake Forest College, Published by The Mathematical Association of America.

[2] Faisal Alvi and Moataz Ahmed, *Complexity analysis and playing strategies for Ludo and its variant race games*, ResearchGate. Available at: https://www.researchgate.net/publication/224259871_Complexity_analysis_and_playing_strategies_for_Ludo_and_its_variant_race_games (Last assessed on 21 April 2021)

- At a cursory comparison of the usage of dice in the gameplay in Ludo and Backgammon it can be misleading to conclude that the employment of one dice in Ludo leads to increased randomness or chance as against the employment of two dice in Backgammon, merely because it is mathematically possible to identify with relatively higher accuracy the probability of a certain number being rolled on the dice. To demonstrate the above, we may consider the state-space of outcomes in rolling two dice by the below presented table which identifies all 36 possible outcomes upon rolling two dice:

Dice 1	1	1	1	1	1	1	2	2	2	2	2	2	3	3	3	3	3	3	4	4	4	4	4	4	4	5	5	5	5	5	5	6	6	6	6	6	6
Dice 2	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	

It is fairly easy to identify the probability of rolling 2 numbers of same value upon rolling a dice as the same is even presented by highlighting the relevant outcomes in the above state-space, as presented below:

Dice 1	1	1	1	1	1	1	2	2	2	2	2	2	3	3	3	3	3	3	4	4	4	4	4	4	4	5	5	5	5	5	5	6	6	6	6	6	6
Dice 2	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	

Thereby giving a probability of 6/36 or the simplified version of 1/6 to roll the two dice with same numbers.

Similarly, the probability of rolling a certain value vide both the dice is also determinable upon usage of basic mathematical formulas, and for the ease of reference the same is identified vide the below table by identifying that arriving at a sum of ‘7’ by adding the values of both the dice is highest as compared to any other outcome.

Dice 1	1	1	1	1	1	1	2	2	2	2	2	2	3	3	3	3	3	3	4	4	4	4	4	4	4	5	5	5	5	5	5	6	6	6	6	6	6
Dice 2	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	1	2	3	4	5	6	
Total	2	3	4	5	6	7	3	4	5	6	7	8	4	5	6	7	8	9	5	6	7	8	9	10	6	7	8	9	10	11	7	8	9	10	11	12	

Again, giving a probability of 6/36 or the simplified version of 1/6 to roll the two dice to arrive at the sum total of 7 by adding the values of the outcomes of the dice.

- The probability of arriving at different sums for each of the outcomes upon rolling of two dice is presented herein below in a simpler manner:

Sr. No.	Sum total of value of two dice	Probability of the outcome
1.	2	1
2.	3	2
3.	4	3
4.	5	4
5.	6	5
6.	7	6
7.	8	5
8.	9	4
9.	10	3
10.	11	2
11.	12	1

- The above presentations would impress the notion that a game involving rolling of two dice (such as Backgammon) instead of one (such as Ludo) is far more predictable with the employment of simple probability calculation. However, the very foundation of the doctrine of probability demonstrates otherwise.
- If one were therefore to question the probability of rolling a sum-total of 6 upon rolling two dice, one would arrive at the conclusion of 5 out of the above demonstrated 11 outcomes thereby giving a chance of 0.4545454545454; which is clearly less than half.
- However, if one were to compare the probability of rolling a sum-total of 6 out of all the possible outcomes, one might by simple calculation suggest it as being 1 out of 6 or 0.166666666666. However, given that there are 4 players in Ludo (and only 2 players in Backgammon) if one were to derive the probability of rolling a 6 vide a single dice in Ludo by one of the players out of a sample set of 4 turns (one for each player in one round of rolling the dice) the probability for the same would be more than half and thereby, arguably, bringing a lot more certainty to Ludo than as compared to Backgammon; and the same is demonstrated by the below calculation.
- To ascertain the probability of occurrence of the number 6 upon a single dice being rolled, let us first demonstrate the probability of the number 6 not appearing in four turns. Since the rolls of dice are completely independent events, i.e., the occurrence of an outcome upon one roll of a dice has absolutely no consequence upon the roll of any subsequent rolls of dice, the probability of no 6 occurring as an outcome in four rolls is:

$$5/6 \times 5/6 \times 5/6 \times 5/6 = 54/64 = 625/1296$$

To therefrom identify the number of probabilities in which 6 may occur upon rolling a dice four time we shall subtract the outcome by 1 as all probabilities are determined between the values of 0 to 1.

$$1 - 625/1296 = 671/1296 = 0.51774691358$$

This exceeds ½, and thereby demonstrating that the probability of the number 6 appearing in four rolls of a single dice is higher than half.

- By virtue of the above demonstration, upon applying the underlying principle to the rules of Ludo it is deduced that Ludo is a mathematically sound game which ensures that each player essentially gets a higher than $\frac{1}{2}$ chance to roll a six in one round of rolling the dice between the 4 players thereby ensuring that each player, during the lifecycle of a game receives a higher than half chance at getting all the pieces out of the resting space and into the race.
- The above demonstration can be further supported through a statistical analysis of a data-set of Ludo games to arrive at the number of games where all 4 players roll the number 6 at least 4 times[1] to get their pieces into the race; and even to demonstrate the number of games where all 4 players move all 4 of their pieces into the race. Needless to say, the statistical analysis shall also enable demonstration of the correlation and causation between the design of the game of Ludo in providing a fair and equitable chance (rather than an unfair chance such as in games essentially designed for gambling such as roulette or the three-card game) to each of the 4 players.
- While the thought leadership on determining the degree of chance and skill in a particular game has noted that: “In a game of pure chance, the past has no predictive power for the future (if the random draws are time independent). If a particular player was successful in roulette, this does not imply that they will be successful in the future. In a game of skill this is obviously different”[2]; the above deduction counters the said contention, specifically in the case of Ludo, by demonstrating that Ludo is a game based on certain mathematical reasoning, thereby factoring in the role of chance, but at the same time creating an equity in providing a competitive fairness for each of the four players to employ their skills and strategies at achieving the desired outcome of succeeding.
- From the above analysis it is clearly ascertained that Ludo is not a game of “pure chance”; and thereby establishing that Ludo is not a game essentially and/or intrinsically designed for gambling. Arriving at this deduction prior to identifying the role of skill furthers the cause for not classifying Ludo as predominantly a game of chance; however, the analysis of the Role of Skill and Role of Strategy would further establish the same.

[1] The choice a player makes upon achieving the number 6 upon rolling a dice – except on the first occasion or on an occasion during the course of the game wherein all the pieces of a player are in the resting space – to either move the pieces outside of the resting space to the race or to move a certain piece 6 places ahead, is however independent of chance.

[2] Supra n. 2. (Duersch, Lambrecht, and Oechssler)

- The employment of existent formulae-based deductions to determine predominance of chance or skill in Ludo would invariably not factor in the very elementally mathematical design of Ludo. Duresch, Lambhert, and Oeschssier, in 2018 noted that: *“When we compare the games to our 50%-Chess benchmark, we find that their standard deviations are mostly below the benchmark. Poker, backgammon, and other popular online games are below the threshold of 50% skill and thus depend predominantly on chance.”*[1] Firstly, this result of presenting poker as predominantly a game of chance contradicts the conclusions of certain High Courts in India that poker is a game of skill.[2]
- We identify the methodology of Duresch, Lambhert, and Oeschssier as the benchmark for formulae-based determinants of predominance of chance or skill in a particular game for the same admits that it builds on the past theories for quantitatively determining predominance of chance or skill in a game. However, we do not recommend employment of such a methodology as the authorship by its very admission does not present strong case for the same as at the very outset it acknowledges that that: *“So far, no convincing quantitative criterion exists that separates games of skill from games of chance”*; yet it builds on the same by iterating that: *“The basic idea of our approach is not new and was used by a number of authors (see e.g., Croson, Fishman, and Pope (2008), Levitt and Miles (2014)). It is an empirical approach that involves checking whether the past performance of players can predict their future success.”* It is thereby reliant on data-sets for identifying player ratings, which only analyses the past performance of player – which albeit being a contributor to determining the role of chance or skill does not provide a universally applicable formulae or method of determining the predominance of chance or skill in a particular game.
- The role of chance in inter-play between a device of chance, such as dice, in games tends to exert a response from the subject, in this case the players of Ludo. This response which has been termed by Erving Goffman – a notable American sociologist who served as the 73rd president of American Sociological Association – as ‘action’[3]. In the words of Goffman: *“[...] chance lies in the attitude of the individual himself-his creative capacity to redefine the world around him into its decisional potentialities.”* Goffman also suggests that chance facilitates the exhibition of superior skill by posing a challenge to the player to demonstrate his abilities to control an otherwise out of control situation. He notes: *“A player can engage in all manner of calculation and divination regarding how to manage his bet, whether this involves copings, defenses, or both.”*[1]

[1] Ibid.

[2] With respect to the game of Poker, the High Court of Karnataka in *Indian Poker Association v. State of Karnataka* (2013OnLineKar8536) has observed that Poker is a game of skill and thereby not requiring a licence for convening the game in clubs. However, as presented in the previous Chapters, the High Court of Gujarat has in *Dominance Games Pvt. Ltd., v. State of Gujarat*, (2017SCCOOnLineGuj1838) classified Poker as a game of chance.

[3] E. Goffman, ‘Where the action is’ in *Interaction Ritual – Essays on Face-to-Face Behavior*, Pantheon Books, New York.

- The above-mentioned notion has been further studied and commented upon to demonstrate that:

“Games of chance are paradigms of action, although Goffman takes pains to point out that what constituted a game of chance lies in the individual’s attitude towards a set of events. [...] the particular appeal of ‘action’ situations lies in the opportunity they present to show certain qualities of ‘character’. These qualities are not qualities of skill, effort, or talent, but are qualities that appertain precisely to situations that are out of the actor’s control. Such qualities are courage, gameness, integrity, gallantry, composure, presence of mind, dignity, stage confidence. There are the inner qualities of self that stand out and are demonstrably ‘real’ when unsupported by the situation. When one is ‘out of control’, then one can show what one really is. So far then, games of chance, and indeed all gambling situation, have been characterized by the association of uncertainty of outcome, with the submission of the actor to his fate. [...] the very utility of chance implies this stance by the actor.

Games of chance as games of skill

However, when one begins to look in detail at the behavior of people playing games of chance, or, more generally, involving themselves in action, a paradox emerges. People show a remarkable tendency not to submit passively to their fate, but to engage in practical theorizing and to apply their theories in attempts to influence the outcome of to judge what the outcome will be. Situations are set up to remove the possibility of influence or the exercise of skill, and then, whilst granting the legitimacy of the set-up, people may do their level best to subvert it – so much so, that what may appear to the outsider as a chance situation is, for the participants, an arena in which to apply skill.”[1]

The above analogy when applied to the game of Ludo, especially in light of the earlier deduction that the game design of Ludo presents a fair stage for each player to demonstrate their heightened skill-set, thereby confirming that the game of Ludo is designed to predominantly test the skills of each player rather than leaving the governing dynamics of Ludo to chance. The range of skills that can be employed to succeed in the game of Ludo are presented in the following segment.

[1] David Oldman, 'Chance and skill: A study of Roulette', *Sociology* Vol. 8, No. 3 (September 1974), pp. 407-426. Published by Sage Publications, Inc. Available at: https://www.jstor.org/stable/42853098?read-now=1&refreqid=excelsior%3Ad893a7ba258eb5611fb3baaf5110891d&seq=4#page_scan_tab_contents, (Last accessed on 19 April 2021)



Role of Skill and Strategy in Ludo

- To set the stage for identifying and ascertaining the skills employed in Ludo, it is essential to reiterate the findings of Indian jurisprudence comprising elements or gaming mechanics encompassed by skill, as presented herein below:
 - In *K.R. Lakshmanan Horse-Racing Case* it was noted that: **A game of skill, on the other hand - although the element of chance necessarily cannot be entirely eliminated - is one in which success depends principally upon the superior knowledge, training, attention, experience and adroitness of the player.**
 - In *Scott v. Director of Public Prosecutions*, it was noted that: **[...] not only literary skill, but any kind of skill or dexterity, whether bodily or mental, in which persons can compete, would prevent a scheme from being a lottery [...]**
 - In *Gaussian Network Pvt. Ltd v. Ms. Monica Lakhanpal* skill was defined as **[...] an exercise upon known rules and fixed probabilities of sagacity, which in turn is defined as quickness or acuteness of sense perception; keenness of discernment with soundness of judgments; shrewdness and the ability to see what is relevant and significant. It involves: a) a learned or a developed ability; b) Strategy; c) Physical coordination; d) Technical expertise and e) Knowledge.** The Court in *Gaussian Network* also noted that: **“A game of skill is one where the outcome is determined mainly by the mental or physical prowess.”**
 - Further, in *Babu Bhai and Ors. Vs. State of Rajasthan and Ors.* it was noted that **[...] the person playing must have an aptitude and must have a certain amount of experience and expertness in the play of the particular game.”**

- The presence of above identified elements in a game would denote the set of skills employed in a particular game to achieve the desired result, often success. On the other hand, while we have noted in the previous Chapters that strategy has been identified by the Indian Jurisprudence and in one instance even by an Indian legislature as a component of skill, strategy ought to be developed from assessment of the experiential data accumulated upon employment of skills and their application in a certain game.
 - The movement of pieces in a game of Ludo by employment of numerous techniques is determinative of success in the game, with the objective of each player being to finish the race by getting their respective 4 pieces from the resting space into the home space before the other players. The possibility of being forced to return the pieces to their resting space upon other players' pieces subsequently landing on the same tile as that of the earlier player and the dynamics involved by introduction of safe spaces where the landing of other players' pieces subsequently will not have the same effect of return of the earlier piece to the resting space add to the complexity of Ludo along with of course the requirement of strategically identifying which piece should be moved at a given time when two or pieces are in the race.
 - Amongst the range of skills involved in Ludo, the employment of probability in the game of Ludo adds to not only the element of superior knowledge of a player but also tests the attentiveness and adroitness/dexterity exerted by each player during the game of Ludo. The implementation of attentiveness and adroitness in a game of Ludo would translate into reduction of probabilities of getting hit by the pieces of other players and avoiding return of the piece to the resting space.
 - The skills employed in Ludo can be divided into three primary categories (identified from a study of the game of "Parcheesi"[1], the American variant of Ludo) presented as below: i.e., Parcheesi comprises the following:
 - Garnering Experience and eventual Expertise by Experimenting with outcomes of Dice in movement of Pieces;
 - Influence through Purposeful Placement of Pieces for Offensive and Defensive Gameplay;
 - Development of Strategies by Identifying and Determining Possible Outcomes.
- A segmented elaboration of the aspects of the above identified skill-sets presents the influencers that can be employed by players in an exhibition of skills during the course of game.

[1] Karen N. Bell, 'Easy Parcheesi' Teaching Children Mathematics Vol. 12, No. 6 (FEBRUARY 2006), pp. 312-322 Published by: National Council of Teachers of Mathematics.

Garnering Experience and eventual Expertise by

Experimenting with outcomes of Dice in movement of Pieces

- Similar to the game of Backgammon, each player in Ludo attempts to achieve a dominant position by largely (a) moving pieces safely and rapidly around the boards to the home space; and (b) placing and holding two or more pieces in safe space tiles on the board to create the possibility of hitting the pieces of opposing players.[1] The skill progression to achieve success in Ludo through mastering the movement of spaces and creating opportunities for deploying pieces to attack those of opposing players is derived through practicing gameplay on regular basis. It has been pointed out that development of skill in games where chance plays a limited role is dependent upon deliberate practice.[2]
- Another study on decision-making emphasizes the importance of intuition which develops alongside experience by noting that:

“Intuition depends on the use of experience to recognize key patterns that indicate the dynamics of the situation. Because patterns can be subtle, people often cannot describe what they noticed, or how they judge a situation as typical or atypical. Therefore, intuition has a strange reputation. Skilled decision makers know that they can depend on their intuition, but at the same time they may feel uncomfortable trusting a source of power that seems so accidental.”[3]
- The ability to identify patterns in game of Ludo would build not only from the employment of probability and reasoning in movement of pieces, but also development of strategies by defining the dos and don'ts in specific situations and when making decisions between choices, such as having a piece leave the resting space upon rolling a 6 on the dice or by moving a piece already outside the resting space in the race on the board game six places depending upon the specific circumstances.
- Building experiential skills not only enable a player to make decisions based on the rolls of dice during the course of their turn but also those of the opposing player as assimilation of information during the course of gameplay is completely transparent in the game of Ludo. This aspect adds considerable predictability to a game that comprises a device in the form of dice to introduce chance and randomness.

[1] Chapter 3, Backgammon and Other Dice Diversions in The Mathematics of Games and Gambling by Edward W. Packel, Lake Forest College, Published by The Mathematical Association of America.

[2] Michael J. Mauboussin, Chapter 8: “Building Skill”, The Success Equation, Harvard Business Review Press. 2012. Available at: https://www.google.co.in/books/edition/The_Success_Equation/MC_fgWrQXBgC?hl=en&gbpv=1&dq=The+Success+Equation:+Untangling+Skill+and+Luck&printsec=frontcover (Last accessed on 21 April 2021)

[3] Gary Klein, Chapter 4: The Power of Intuition, Sources of Power: How people make decisions. Available at: https://www.google.co.in/books/edition/Sources_of_Power/KZ7uDwAAQBAJ?hl=en&gbpv=1&dq=sources+of+power+how+people+make+decisions&printsec=frontcover, (Last accessed on 21 April 2021).

Influence through Purposeful Placement of Pieces for Offensive and Defensive Gameplay

- Building from the previous category of skills employed in Ludo a crucial component of influence exerted by players in the game of Ludo is derived from pattern and experience-based placement of pieces on the safe-spaces on the board to target hitting the pieces of opposing players. Not only does the same enable classification of offensive and defensive moves in the game of Ludo, but also enables players to employ pressure building and pressure dispersing tactics during gameplay.
- The concept of influence has been described as follows: “When we talk about the influence of moves (player moves or chance moves), we talk about their influence on the game result. A single move rarely decides the game. Instead, moves lead to game states in which a player has improved or reduced chances of winning. From the perspective of player Max, a move has a positive influence if it improves his position and hence increases his expected reward from the game. This interpretation is crucial because it allows us to quantify influence.”[1]
- The ability to learn adds to the experience of a player, in turn improving the rate of successful imposition of influence. The role of skill through learning has been succinctly captured by Larkey, Kadane, Austin, and Zamir wherein they note that: “When the opponent acts on a particular hand, the learning player observes the aggressiveness of the act and updates the parameter for this opponent in the appropriate direction. A second type of learning involves choosing among already known rules. For example, as a strategy learns about a particular opponent, it may change the proportions with which the elementary strategies in a complex strategy are played. A third type of learning involves the creation of new rules or the elaboration or elimination of old rules. This is the most difficult sort of learning to simulate or incorporate into models because it requires a model that somehow "understands" the game's domain and contains mechanisms for generating new strategies.”[2]
- The shifting of paradigms and degrees of influence exerted by a player improvises the gameplay during the course of a game and adds predictability even to a game incorporating elements of chance, such as Ludo. Planning enhances the ability to formulate bespoke strategies to specific challenges. Cognitive activity of identifying a course of action comprises two key components of planning skill are self and opposition assessment.[3] Thereby demonstrating that the ability of a player to employ mathematical probabilities of outcomes to arrive at a decision to employ a particular set of moves of pieces furthers the involvement of skills in Ludo.

[1] Jakob Erdman, Chapter 4: The Concept of Influence, The Characterization of Chance and Skill in Games. Available at: https://www.researchgate.net/publication/262055594_The_Characterization_of_Chance_and_Skill_in_Games (Last accessed on 21 April 2021).

[2] Larkey, Kadane, Austin, and Zamir, 'Skill in Games' in Management Science · May 1997.

[3] Ibid.

Development of Strategies by Identifying and Determining Possible Outcomes.

- The specific role of strategy in Ludo (albeit as a component of skills employed in the game) has been elaborately demonstrated by *Faisal Alvi and Moataz Ahmed in Complexity Analysis and Playing Strategies for Ludo and its Variant Race Games*.^[1] Alvi elaborates on varying strategies by firstly assessing the state-space complexity of Ludo and deriving a conclusion that the same is comparable to that of Backgammon.
- The strategies identified by Alvi comprise: (a) Random, (b) Aggressive, (c) Defensive, (d) Fast, and (e) Mixed; and in furtherance thereof Alvi presents his determinations on testing the performance of strategies, by noting that: “It can be seen that the mixed-strategy player wins at least 90% games against basic-strategy players suggesting that this strategy is far superior than any basic strategy taken alone. We can also observe [...] that the average number of moves taken by the mixed-strategy player against other basic-strategy players is close to 65, which is the expected minimum number of moves required to win [...]. This implies that the mixed strategy is close to being an optimal strategy against the basic-strategy players, since it takes close to an expected minimum number of moves to win a game on average.”^[2]
- Not only does the said study determine the optimal strategy for success but introduces definitive conclusions of quantifying that the concerned strategy results in success in at least 90% games, thereby demonstrating Ludo as a heightened and predominately skill-based game.



[1] October 2011, DOI: 10.1109/CIG.2011.6031999. Available at: https://www.researchgate.net/publication/224259871_Complexity_analysis_and_playing_strategies_for_Ludo_and_its_variant_race_games, (Last accessed on 21 April 2021).

[2] Ibid at pg. 146.

Conclusion

The above analysis substantially identifies the dominance of elements of skill having a larger and more concrete impact on the outcome of game of Ludo and accordingly ascertain that skills when employed with a plausible strategy that may be derived from past experiences of players ensure a higher chance of success in the game of Ludo, and secondly that the very mathematical structure of the game of Ludo factors in chance through the employment of dice as the randomness generator, but does not rest the outcome solely on the number rolled by the dice.

Further as observed by the Hon'ble Supreme Court in *State of Andhra Pradesh v. K. Satyanarayana & Ors.*[1], that chance in all games where cards are shuffled and dealt out, there is an element of chance as the distribution of cards is not according to any set pattern but is dependent upon how the cards find their place in the shuffled pack, but this aspect alone cannot factor into classifying Rummy as a game of chance. The court further observed that Rummy cannot be called a game of chance as it requires certain amount of skill because the fall of cards has to be memorized and the building up of Rummy requires considerable skill in holding and discarding cards. Likewise, in a game of Ludo, the throw of dice depends on the element of chance but the use of the attained number in deciding whether to move the pawn ahead or which pawn to move or even not move, requires considerable analysis and skill by the player thereby evaluating how many chances or steps does a pawn need to make to effectively win the game.

Thus, the analysis made above falls aptly in line with the analysis made in the preceding chapters leading to a crystal-clear conclusion that, Ludo is a game of skill.

In continuation of the above finding, the subsequent Part considers the foreign jurisprudence on determination of games as being that of chance or skill and presents the legal principles that can have an enabling effect on further development of the Indian jurisprudence on the subject.

[1] AIR 1968 SC 825.

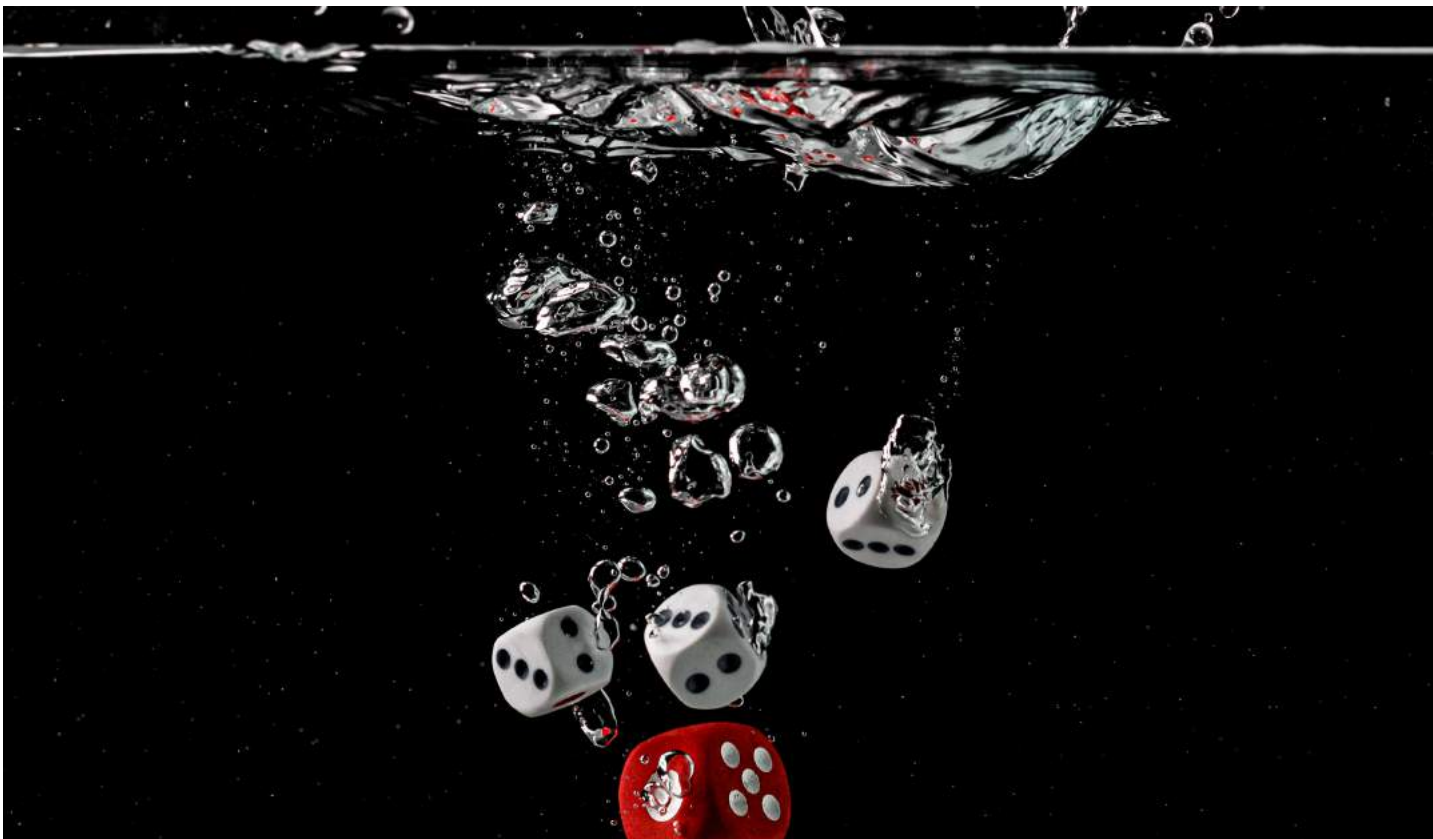
PART C

**RELEVANT GLOBAL
JURISPRUDENCE AND
LEGAL PRINCIPLES
THAT MAY IMPACT THE GAME OF LUDO**



RELEVANT GLOBAL JURISPRUDENCE AND LEGAL PRINCIPLES THAT MAY IMPACT THE GAME OF LUDO

1. Building on from the previous Part B, this Part of the Report identifies and determines gambling/gaming related regulations and legal principles prevalent in leading foreign jurisdictions forming part of the global jurisprudence to identify any such principles that may impact classification of Ludo as a game of chance or skill.
2. While courts around the world have rarely deliberated upon the aspect of skill or chance involved in the game of Ludo or its international variants known by different names such as ‘Parcheesi’ in North America, ‘Parchís’ in Spain, ‘Parqués’ in Colombia, ‘Chińczyk’ in Poland, ‘Petits Chevaux’ in France, and ‘Reis ümbermaailma’ in Estonia, the leading jurisdictions such as those of (a) United States of America; (b) United Kingdom; (c) Singapore; (d) Canada; and (e) China have developed principles that can very well be applied to Ludo to ascertain its classification.
3. The present Part accordingly presents the gaming related developments in the above-said leading jurisdictions while at the same time presenting the concerned tests as and where the same have been designed by the respective jurisprudences to classify a game as that of skill or chance. The overall outcome of this study concerning foreign jurisdictions enables confirmation of the perception-based determination of a game as that of chance or skill even by foreign judicial systems; equating the position to the same as being in India.



CHAPTER I: UNITED STATES OF AMERICA

- The gambling/gaming industries in the United States of America (“USA”) are not governed by a single central or federal legislation; rather each state in the United States has been conferred with the authority to frame its own rules and regulations towards gambling and gaming, which is similar to the position in India. The American States have attempted to strike a balance between skill/talent and chance in deciding what is and is not gambling, and have done so using three key tests: (i)the Predominant purpose test[1] (ii)the material element test[2] (iii)the any chance test.[3]
- The first and the most imperative test while analyzing whether a game is of “skill” or “chance” is the **Predominant Purpose Test**. According to predominant purpose test a contest is not called gambling if the result is mathematically more likely and, in all probability, to be decided by skill than chance. In this, the most impacting factor is used to decide whether a game would be called as that of skill or chance. In the case of *Com. v. Two Elec. Poker Game Machines*[4], the Pennsylvania Court addressed the three aspects of "gambling" and then established the "predominate-factor test," which states that for a game to be considered gambling, it must be one in which chance predominates over skill. According to the Court in this case, the court should decide the proportional amount of chance and skill involved in the game, and if the factor of chance predominates, the game is a gambling game.

[1] Op. of the Justices, 795 So. 2d 630, 635–36 (Ala. 2001)

[2] *Morrow v. State*, 511 P.2d 127, 129 & n.5 (Alaska 1973)

[3] *Roberts v. Commc’ns Inv. Club of Woonsocket*, 431 A.2d 1206, 1211 & n.5 (R.I. 1981) (same)

[4] 502 Pa. 186 (Pa. 1983) 465 A.2d 973

- Further, in O'BRIEN v. Scott 89 A.2d 280 (N.J. Super Ct. App. Div. 1952), the Superior Court of New Jersey, Chancery Division, while holding that "Skilo" is predominantly a game of skill and not a game of chance, also delved into the aspect as to what constitutes a game of "chance" or "skill" by discussing as below:

"Game of chance The phrase 'game of chance,' it has been said, is not one long known in the law and having therein a settled signification. It is a game determined entirely or in part by lot or mere luck, and in which judgment, practice, skill, or adroitness have honestly no office at all, or are thwarted by chance; a game in which hazard entirely predominates; one in which the result as to success or failure depends less on the skill and experience of the player than on purely fortuitous or accidental circumstances incidental to the game or the manner of playing it or the device or apparatus with which it is played, but not under the control of the player."

The New Jersey Court further observed as following:

"Games of skill are usually lawful, while gambling by any species of games of chance is generally considered unlawful. The test of the character of the game is, not whether it contains an element of chance or an element of skill, but which is the dominating element that determines the result of the game, or, alternatively, whether or not the element of chance is present in such a manner as to thwart the exercise of skill or judgment. It is the character of the game, and not the skill or want of skill of the player, which determines whether the game is one of chance or skill. A game of chance does not cease to be such because it calls for the exercise of skill, nor does a game of skill cease to be such because at times its result is determined by some unforeseen accident."

- *The New Jersey Court in this case opined that the relevant question while establishing whether the game contains an element of chance or an element of skill is that "which of them is the dominating element that determines the result of the game." A majority of states, including California, Massachusetts, Pennsylvania, Ohio, and North Carolina apply this test, which is the most used test by state courts.*



- In this regard, further clarity is also gained from *Hunter v. Teaneck Township*, 128 N.J.L. 164 (Sup. Ct. 1942), wherein the court noted as follows:
 - *"Various factors have been held to be determinative as to what constitutes a game of chance. There is a line of cases, of which People v. Lavin (1904), 179 N.Y. 164; 71 N.E. Rep. 753; 66 L.R.A. 601, and Commonwealth v. Plissner (1936), 295 Mass. 457; 4 N.E. Rep. (2d) 241, are typical, holding that the test of the character of the game is not whether it contains the element of chance or the element of skill, but which is the dominant element that determines the result of the game. There is another line of cases, of which State ex rel. Dussault v. Kilburn (1941), 111 Mont. 400; 109 Pac. Rep. (2d) 1113; 135 A.L.R. 99, is typical, holding that if the game is designed to and does appeal to, and induces, lures, and encourages, the gambling instinct, it constitutes a game of chance. And *136 there is a further line of cases, of which Alexander v. Martin (1939), 192 S.C. 176; 6 S.E. Rep. (2d) 20, and Alexander v. Hunnicutt, (1941), 196 S.C. 364; 13 S.E. Rep. (2d) 630, are typical, holding that since amusement has value, and added amusement has additional value, and since that additional amusement is obtained by chance without the payment of additional compensation therefore, there is involved in the game the three necessary elements of gambling, viz., chance, price and prize."*
- The courts in these cases have discussed that the character of the game is irrelevant and what should be considered is the dominant factor which determines the outcome of the game. While most of the cases are of the similar view and follow the “Predominant Test”, some also have deliberated that if a game having amusement has three elements – chance, price and prize, they fall within the ambit of gambling.



The Material Element Test

- In *White v Cuomo*[1], Court appreciated the materials elements test to determine Fantasy Sports (hereinafter “IFS”) contests fall within the ambit of gambling or not. Section 225.00(2) of New York Consolidated Laws, Penal Law provides that any person who is engaged in gambling when he risks something of value for any future happening which is not under his control for the agreement that for such risk, he will receive the reward. The defendant in this case claimed that the dominance test should be used to decide whether a game is gambling or not, but the Hon'ble Court did not agree with the dominance test and ruled that the concept of "contest of chance" does not prescribe that the factor of chance be the "dominating element. Rather, it is a 'contest of chance' because, despite the fact that the contestants' abilities may play a role in the outcome, the outcome is determined in a 'material degree' by an aspect of chance.
- The court also recognized that the existing Criminal Law concepts correspond to the general sense of the statutory prohibition and the specific terms "book-making" and "gambling" at the time of the prohibition's passage and today.
- Participants who wish to enter into IFS, have to pay an entrance fee in the hopes of winning a reward for doing well in an IFS contest, so the basics of the meaning provided under Penal Law are met in this case. As a result, such contests are gambling whether their results rely to "a material degree on an aspect of chance, despite the skill of the contestants can also be a consideration therein," or if they rely on a "remote contingent occurrence not under control or influence," since they are contests of chance.
- It was argued that IFS contests are those that require expertise. In response, the court held that while IFS contests which require skill for player selection, they have no discretion of how players on their IFS teams compete in the game. To put it another way, an IFS contestant's skill level cannot negate or exceed the material function of chance in IFS contests.
- As a result, the New York appellate court embraced the material factor test, finding that the sport must be gambling under New York penal law because "the skill level of the contestant cannot exclude or exceed the material role of chance in contests."

[1] *White v Cuomo*, NY Slip Op 00895

Any Chance Test

- Some of the judicial and legislative minds in US have contemplated and decided that a game is gambling if it involves any chance whatsoever. Since, virtually all contests involve chance; most skill games cannot survive scrutiny under this analysis. This restrictive view is a minority approach, which has been implemented in Arkansas, Arizona, Iowa, and Tennessee, among others.
- The §18 of United States Code, 1955 makes illegal only those gambling businesses that are a violation of the law of the state in which they are conducted. Under New York State law, an illegal gambling device is a machine usable in the playing phases of any "gambling activity." Under N.Y. Penal Law § 225.00(7), "Gambling," in turn, is defined as the staking or risking of "something of value upon the outcome of a contest of chance [. . .], upon an agreement or understanding that [the individual] will receive something of value in the event of a certain outcome." Under, N.Y. Penal Law § 225.00(2) (emphasis added), "Something of value" is defined as "any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein." N.Y. Penal Law § 225.00(6). A "contest of chance" is defined as a "game . . . in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor therein." N.Y. Penal Law § 225.00(1). Thus, in sum, an illegal gambling device is a machine that is used in an activity where money (or something else of value) is staked upon the outcome of a contest that depends in a material degree upon chance.



- In the case of *United States of America v. Peter Gotti*[1], the court deliberated on the issue pertaining to bookmaking and joker-poker under 18 U.S.C. § 1955 and observed the following in this regard:

“On appeal, Bondi raises several arguments as to why the government failed to adduce sufficient evidence that the joker-poker machines in question were illegal gambling devices. First, he contends that there was no evidence that people who played the machines actually received something of value from them. Second, he argues that the games in question were games of skill rather than contests of chance. Both of these arguments lack merit. As to Bondi’s “something of value” argument, the government adduced evidence that customers of the machines in question would purchase credits to play the machines, that they would receive credits if they won, and that they could ultimately redeem these credits for cash. See supra pp. 318-319. Thus, there is no question that the customers risked something of value - money - upon the outcome of the games played on the machines. As to Bondi’s argument that the games were games of skill rather than chance, he fails to recognize that a “contest of chance” encompasses games in which the skill of the contestants may play a role, as long as the outcome depends in a material degree on chance. Bondi concedes that the games in question had the theme of poker, and he has not contended in his brief that chance does not play a material role in the outcome of a poker game”

- The Court held in this case that risking of something of value on an outcome which involves material degree of chance rather than skill will fall within the purview of gambling. The Courts deliberated on the fact that even if a game of chance involves an element of skill, it will still be a game of chance and as result even though Poker has elements of skills involved, chance plays a material role in that.

[1] MANU/FESC/0233/2006

CONCLUSION

1. The jurisprudence in USA varies from state to state when it comes to classifying a game as based on “skill” or “chance”. Each state in USA has their own set of rules and regulations concerning gambling and ipso facto has chosen how to differentiate between a game of chance and skill. There are three tests which are relied upon in USA, chief among them being the “Predominant Purpose Test” which states that the most important factor while deciding a game should be skill and not chance. If the outcome or result of the game is mathematically dependent upon skill and not chance, then that game will be called a game of skill and not chance.
2. The Second test is the “Material Element Test” which dictates that despite the element of skill being present in a game and it playing a major role in the outcome of the game, if there’s an element of chance present in that game, without which the outcome of the game, no matter the skill involved, cannot be determined, then in that case, that game will be of chance and will come under the ambit of gambling.
3. The Any-Chance Test, as the name suggests, dictates that if a game involves any aspect of chance, then that game is deemed to be perceived as a game of chance and therefore, gambling. The structure of the test being so restrictive, that only a few have supported this view and is known to be prevalent only in Arkansas, Iowa, and Tennessee.
4. Thus, in USA, just like the laws, there is no central or one major test which can be used to evaluate the nature of the game. It depends upon each state and the US constitution has allowed each state to uphold their views and enforce the same.



CHAPTER II: UNITED KINGDOM

A HISTORY OF GAMBLING IN UNITED KINGDOM

- Gaming has a long history in the United Kingdom and the rules that govern it have evolved over time. The House of Commons appointed a commission to study the rules relating to lotteries in 1808, and since then, many policies, recommendations, and laws have been enacted in the United Kingdom to govern gambling. The timeline of gambling legislation in the United Kingdom is represented in the table below:

Gambling legislation in Britain in the 19th and 20th centuries: some key dates[1]:

Year	Regulations/Recommendations/Legislations
1808 House of Commons	Select Committee on the laws relating to Lotteries Highly critical of public lotteries
1823 Lotteries Act	Lotteries made illegal
1844 - House of Lords	Select Committee on Gaming Recommended stronger police action against gambling ‘hells’; and making gambling agreements unenforceable
1845 - Gaming Act	Gaming debts unenforceable at law; resulted in bookmakers demanding cash from clients and a rapid growth of betting houses
1853 - Betting Houses Act	Lotteries made illegal
1902 - House of Lords	Recommended legislating against street betting Committee on Betting
1906 - Street Betting Act	Acceptance of bets on streets and in other public places made illegal

[1] Jim Orford, Bob Erens, Laura Mitchell, Kerry Sproston,3,Gambling and Problem Gambling in Britain, Psychology Press, 2003

Year	Regulations/Recommendations/Legislations
1923 - Select Committee on Betting Duty	Accepted the principle of legal, regulated gambling; concluded a betting tax was practicable
1933 - Royal Commission on Lotteries and Betting	Argued that prohibitions on gambling should be minimal but thought betting offices should remain illegal
1934 - Betting and Lotteries Act	Legalized private and small public lotteries
1951 - Royal Commission on Betting, Lotteries and Gaming	Recommended that bookmakers could accept cash bets in licensed premises; but that gaming machines be illegal
1956 - Small Lotteries and Gaming Act	Introduced societies' lotteries for charitable or sporting purposes
1960 - Betting and Gaming Act	Legalized almost all forms of gambling including commercial gaming clubs, licensed betting offices, and gaming machines in a wide variety of venues.
1963 - Betting, Gaming and Lotteries Act	Consolidated the 1960 Act
1968 - Gaming Act	Brought in controls on casinos; established the Gaming Board
1975 - Lotteries Act	Allowed local authorities to conduct good cause lotteries
1978 - Royal Commission on Gambling	Recommended the setting up of a National Lottery; and removal of some of the restrictions on betting offices
1993 - National Lottery Act	Made provision for the setting up of a National Lottery

Year	Regulations/Recommendations/Legislations
2000 - Gambling Review Body set up by the Home Office	Set up to consider the current state of the gambling industry; the social impact of gambling; and the need for change to regulations and treatment for problem gambling
2001 - Gambling Review Body reported to the Department for Culture, Media and Sport	Recommended abolishing the principle of unstipulated demand for casinos and other gambling establishments; the legalizing of larger prizes; tighter control on machines; and the setting up of a Gambling Commission
The Gambling Act 2005	<p>The Gambling Act 2005 (the Act), which came into force on 1 September 2007, replaced most of the existing laws about gambling in Great Britain and aimed to put in place an improved, more comprehensive structure of gambling regulation. Its three objectives are:</p> <ul style="list-style-type: none"> • preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime; • ensuring that gambling is conducted in a fair and open way; and • protecting children and other vulnerable persons from being harmed or exploited by gambling. <p>The Gambling Commission was established as the new, independent national regulator for commercial gambling and it has a key role to play in implementation of the Act. Not only has it issued guidance for local authorities, but it also issues licenses such as operating and personal licenses. Local authorities issue premises licenses for bingo, betting, adult gaming centers, family entertainment centers, casinos and horse racing and dog tracks as well as issue permits for prize gaming, gaming machines in alcohol licensed premises, members clubs and unlicensed family entertainment centers. Local authorities are also responsible for the registration of small society lotteries and process occasional and temporary use notices and provisional statements.</p>

GAME OF SKILL v. GAME OF CHANCE

- Under UK legislations, the extensive debate of whether a game is of “chance” or “skill” has been discussed only a few times over the course of the gambling and gaming history in UK. In *English Bridge Union v. Sport England*, the High Court of Justice Queen’s Bench Division has defined ‘gaming’ as:

“Gaming’ is the playing of a game (being a game of chance or a game that combines skill and chance) for a prize. (‘Sport’ is specifically excluded from the definition, which gives rise to certain issues in its own right.):[1]

- The amount of chance needed to pass the test is not specified, and there is no formal minimis threshold (and definitely no 'balancing act' to determine which of the two variables predominates in the result, as some legal systems require). The meaning is satisfied by some sum of chance in the game. However, in an otherwise fully skilled operation (such as the flip of a coin to determine who will start a game of Chess), small quantities of chance are not deemed to have the requisite effect on the outcome and are ignored. The term 'prize' is used loosely to refer to literally something of merit[2]. Lottery-style schemes that do not include a payout factor or depend heavily on talent do not fall under the formal concept of gambling and are therefore not governed as such by English law. They can be classified as "easy prize draws" or "skill competitions.” As a result, there are a plethora of consumer competitions run as marketing rewards that prevent being classified as a lottery by these means. An obligation to pay for items at their usual price in order to have a chance of winning a draw does not entail a charge for lottery purposes, for the avoidance of doubt.[3]
- In *Overy v. Paypal (Europe) Ltd.*[4], wherein the claimant (Mr. Overy) had devised a competition similar to “spot the ball” and kept his property as a prize for winners so as to make substantial profit from charging entry fees to participants. He had devised this competition in such a way that element of skill would also be involved so as to steer himself clear from the UK gambling laws. The court then embarked upon to analyze what would constitute a game of “skill” as against that of “chance” and observed the following:

“Certain Games of Skill where the elements of skill cannot conclusively be established to predominate over those of chance in determining the outcome. Operators of games of skill where the elements of skill are clearly predominant over those of chance may use Paypal to accept entry fees or similar payments only if they have in place a programme to block users from the US and other jurisdictions where it is illegal to operate a paid contest of skill.”

[1] The Queen on the application of English Bridge Union v. Sport England [2015] EWHC 1347

[2] Carl Rohsler, ‘the Gambling Law Review: United Kingdom’, 12th May 2020. Available at: ‘<https://thelawreviews.co.uk/title/the-gambling-law-review/united-kingdom>’ (Last accessed on 22 April 2021).

[3] Carl Rohsler, ‘the Gambling Law Review: United Kingdom’, 12th May 2020. Available at: ‘<https://thelawreviews.co.uk/title/the-gambling-law-review/united-kingdom>’ (Last accessed on 22 April 2021).

[4] *Overy v Paypal (Europe) Ltd* [2012] EWHC 2659 (QB)

- Further, the case of *Regina v. Kelly*[1] provides substantial clarity on the elements of “skill” and “chance” in gaming. The Court while observing that the game of Texas Hold’em Poker is a game of chance also deliberated on the authorities relied by the Courts in United States of America and discussed the same. Relevant extracts of the same are re-produced below for the sake of reference:

“In support of this submission MrLuba QC referred us to a number of cases decided in the USA where the courts had considered what was meant by a "game of chance". A considerable number of decisions, from courts in Massachusetts, Ohio, North Carolina, California and Alaska were put before us in a bundle of authorities, specific reliance was placed on the summaries of the law by Judge Dull in *Stubbs v Dick* (1949) 89 N.E.2d 480 (Court of Common Pleas of Morcer County Ohio), by the Supreme Court of North Carolina in *State v Stroupe* (1953) 76 S.E. 2d 313 and by the Supreme Court of California in *Re Allen* (1962) 377 P. 2d 280, In those cases the courts referred to well established rules:

“The universal acceptance of a game of chance is such a game as is determined entirely or in part by lot or mere luck, and in which judgment, practice, skill or adroitness have honestly no office at all or are thwarted by chance.”

“The real test is whether chance is the determining element in the outcome of the game and not whether the game contains elements of chance or skill. If chance is the determining element in the outcome, then it is a game of chance.

“Most courts have reasoned that there are few games, if any which const purely of chance or skill, and that therefore a game of chance is one in which the element of chance predominates over skill and a game of skill is one where the element of all predominates over chance”

“The test is not whether the game contains an element of chance of an element of skill but which of them is the dominating factor in determining the outcome of the game.”

*In North Carolina, on this basis, games of skill included Chess, draughts, billiards, bows and quotes games where dice regulated the play wore games of chance. More recently in *Joker Club v Hardin* (2007) 643 S.E. 2d 626, NC Court of Appeals it had been held in the North Carolina Court of Appeals that poker was a game of chance applying the predominance test; that was because although skill was required, the instrumentality for victory was not entirely in the player's hands and thus chance prevailed over skill. We understand that the case is on appeal to the Supreme Court of North Carolina. In California, it has been held on this basis that bridge is a game of skill.”*

The Court held in this case that risking of something of value on an outcome which involves material degree of chance rather than skill will fall within the purview of gambling. The Courts deliberated on the fact that even if a game of chance involves an element of skill, it will still be a game of chance and as result even though Poker has elements of skills involved, chance plays a material role in Poker.

- The court further in the case of Regina v Kelly observed the following in regards to what constitutes a game of chance and skill:

“iv) In his direction to the jury the judge may have gone further than this in favor of the appellant. He directed the jury that there must be a significant or meaningful element of chance as opposed to an element which was simply token, notional or a scintilla. In our view, as Parliament has provided that games of combined skill and chance are to be treated as games of chance without any qualification, then the only circumstance where chance should not be taken to make a game of skill and chance a game of chance is where the element of chance is such that it should on ordinary principles be ignored that is to say where it is so insignificant as not to matter. Parliament did not provide that in a game of mixed skill and chance that the element of chance had to be significant for the game to be a game of chance: there is no reason for the courts to do so.

v) It seems to us that the element of absurdity to which so much weight was attached on behalf of the appellant is properly catered for by ignoring chance where the element of chance is so insignificant as not to matter.

vi) We have reached this conclusion on the basis of our interpretation of 52(1) of the 1968 Act. It was common ground that s. 52(6) was directed at the operation of games played against the bank" such as in casinos or where gaming machines are used, as it refers to games "played otherwise than against one or more other players." It was argued on behalf of the appellant that, as Parliament had considered it necessary to refer to "superlative skill eliminating the element of chance" in relation to games played against "the bank", Parliament had envisaged courts would, in determining whether a game of combined skill and chance was a game of chance, have regard to the predominance of the elements of skill and chance. We do not consider that this in any way follows: on the contrary, on the definition of a game of chance as set out in the Act, if there was no element of chance (as that had been eliminated by superlative skill), it would not be a game of chance and skill combined. The sub section was therefore directed at bringing within the definition games against the bank where it such exist) skill had eliminated any element of chance.”

- Accordingly, the Court held that in an ordinary circumstance, all game of skill and chance should be considered as that being a game of chance; as even if the element of chance is insignificant in a game of skill and chance combined, the game would still qualify as that being of chance.

CONCLUSION

The law in UK pertaining to what constitutes a game of “chance” or “skill” is still developing as the gambling and gaming industry is moving forward. However, the above-cited judgments provide a perspective of how the UK courts undertake to ascertain the issue of “skill” and “chance” in a game. In most of cases, even if there is a slight element of chance in a game which also includes skill, the UK courts are more likely to classify such game as a game of chance, thereby those games coming within the purview of gambling. These views of UK courts are parametria to the approach adopted by certain courts in USA. The “Any Chance” test as promulgated by the jurisprudence in USA cover the perspective of the UK courts.



CHAPTER III: SINGAPORE



- Singapore currently takes a two-pronged approach to gambling controlling its activity in a restricted and regulated atmosphere with the goal of helping community and social purposes, and preventing and discouraging gambling as a vice, especially among Singaporean people and residents.
- The Tote Board and, more recently, the Casino Regulatory Authority of Singapore oversee gambling operations. There are anti-gambling provisions that criminalize illegal gambling and rules that prohibit the prosecution of gambling debts in relation to the latter.
- In Singapore, Land-based gambling activities are generally governed by the:^[1]
 - Betting Act, 1960 which regulates common betting-houses, betting in public places and bookmaking.
 - Common Gaming Houses Act, 1961 which regulates common gaming houses, public gaming and public lotteries.
 - Private Lotteries Act, 2011 which regulates private lotteries.
 - Casino Control Act, which regulates the two licensed casinos in Singapore.
- The Remote Gambling Act, 2014 of The Republic of Singapore regulates the online gambling activities of the country.

[1] [https://uk.practicallaw.thomsonreuters.com/4-636-0616?__lrTS=20171228223811657&transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/4-636-0616?__lrTS=20171228223811657&transitionType=Default&contextData=(sc.Default)&firstPage=true) (Last accessed on 20 April 2021)

GAME OF SKILL AND GAME OF CHANCE

- Gaming and public lotteries are regulated by the Common Gaming Houses Act (“CGHA”). Subject to such prescribed exemptions, it makes it illegal to own, invest or participate in a common gaming house or a public lottery. the CGHA does not make a clear distinction between “gaming” and “gambling” as defined under section 2 of CGHA gambling is defined as “ the playing of any game of chance or of mixed chance and skill for money or money’s worth”.
- In the case of *PP v. PehChyeHeng*[1] which reveals the applicability, extend and scope of the CGHA in regards to online gaming offences. Briefly, the accused was charged under s 4(1)(a) of the CGHA for running an Internet cafe which provided online casino gaming services to customers. The Hon’ble Court held that such games are games of chance which do not require skills and accused was liable as his internet cafe was working as a common gaming house as his internet cafe was accessible to public at large to bet on online casino games.
- In *PehHai Yam v Public Prosecutor*[2], the Singapore Supreme Court while considering the issue whether a Baccarat “insurance” bet, which is a bet on an event or contingency relating to the outcome in a Baccarat game, is a “bet” within the meaning of the definition of “bookmaker” in s 2(1) of the Betting Act, observed the following:

“I also reject the appellant’s attempt to distinguish *Bennett v Ewens* on the basis that the “bet” in that case related to a game of mixed skill and chance, i.e., whist. In my view, this misapprehends what the court held in *Bennett v Ewens*, which was that the question of what amounts to a “bet” does not depend on whether the underlying game is one of pure chance, or mixed chance and skill but is instead dependent on whether “a certain valuable thing was to be paid or given on the happening of a certain event or contingency relating to that game – in other words, victory or defeat” [emphasis added].”[3]
- Two important observations can be made from this:[4]
 - In the most basic and obvious level, it shows that the style of gameplay does not matter (i.e., whether the crime is done online or offline) as long as all other aspects of the offence are met (and this is where there may be some lacuna in the law).What counts is the essence of these sports, specifically whether they are games of chance or games of skill. This emphasizes the substantive distinctions between the types of gambling that are prosecuted, whether they are committed online or physically (and therefore excludes gaming practices that are arguably skill-based).

[1] [2009] SGDC 100

[2] [2017] SGHC 69

[3] *ibid*

[4] TAN, Joyce A; SINGH, Aqbal; LIM, Yee Fen; WAN, Wai Yee; and CHIK, Warren B. Report of the Law Reform Committee on Online Gaming and Singapore. (2010). 1-40. Research Collection School Of Law, available at 'https://ink.library.smu.edu.sg/soL_research/1966/'

- Second, whereas the preceding case only deals with the responsibility of the premises owner on the grounds that cyber cafes that perform such operations are common gaming houses because they are places that the "public has or may have access to," persons who frequent such places as customers would also be liable under sections 760 and 8(1)61 of the CGHA.
- Different forms of gaming are addressed by the two pieces of law. The CGHA is more concerned with "games of chance and skill for money or money's worth," which is more akin to casino gaming, while the BA is more concerned with "bets or wagering on some event or contingency of or related to any horse race or other sporting event," which is more akin to sports betting. This differentiation is significant because it distinguishes between those who participate in online casino-style gaming and those who participate in online betting or wagering.

CONCLUSION

- There are several laws in Singapore that govern gaming/gambling. However, in Singapore, gambling is classified as an act in which any game is played for any consideration, whether it is a game of chance, a game of skill, or a game of mixed chance and skill.
- The Singapore Supreme Court in the case of PehHai Yam v Public Prosecutor arrived at the position that any bet on an event or contingency relating to the outcome in a game, is a "bet" within the meaning of the definition of "bookmaker" under s 2(1) of the Betting Act.
- In this regard, the Courts of Singapore has held that the type of game does not matter, what matters are the levels of uncertainty and the valuation of resources associated with the game. The essence of a game, whether it is game of skill or game of chance also plays a vital role to determine the nature of activity being indulged in by the player. Furthermore, it is noted that under the CGHA, not only is playing such games a penal offence, but so is building a common house for the purpose of playing such games of chance.
- As a result, it can be safely concluded that gambling in Singapore is controlled in a restricted and supervised environment with the aim of assisting community and social purposes. However, the law in regards to what constitutes a game as that being one of "chance" or "skill" is not entirely touched upon by the jurisprudence as prevalent in Singapore and is still in early developing period.

CHAPTER IV: CANADA

- Gambling in Canada is regulated on the Federal level by the Criminal Code of Canada wherein Sections 201 to 207 provide for laws on betting and gambling. According to the Criminal Code in Canada, gambling of any kind is prohibited but there are certain exceptions to the same. Section 204 of the said Act provides for certain exemptions such as betting on lawful races or sports games and a pari-mutuel system on running or trotting.
- The Minister of Agriculture and Agri-Food has the responsibility to regulate such betting as has been prescribed. Further, Section 207 of the said Act provides for lotteries to be lawful if regulated by the Government. Other than this, there are separate laws for each State such as Ontario has laws regulated by the Ontario Lottery & Gaming Corporation Act, 1999 and New Brunswick regulates it by Gaming Control Act.

GAME OF SKILL AND GAME OF CHANCE

- In ***R. v. Robert Simpson (Regina) Ltd. (1958) 121 C.C.C. 39 (Sask.)***[1], the term “Skill” has been defined as what is needed to make the participant “capable of accomplishing something with precision and certainty, cleverness and expertise.
- In this case, it was observed that under Section 206 of the Criminal Code it is illegal to conduct any scheme for the disposal of property by “any mode of chance whatsoever”. This section prohibits contests which “dispose of property”, i.e., award prizes of any description, on a purely random basis.
- There are several tests for the level of skill that must be required of contestants to comply with Section 206. However, these tests are not always consistent. There seem to be two factors that the courts have emphasized when they have required a particular level of skill:
 - Whether the “skill requirement” is merely a device to camouflage an illegal scheme to dispose of property by chance.
 - Whether the “chance” portion of a contest involving chance and skill precedes the test of skill.[2]

[1] *R. v. Robert Simpson (Regina) Ltd. (1958) 121 C.C.C. 39 (Sask)*

[2] Susan Vogt, *Buddy Can You Spare \$100?*, 1993, available at ‘<https://thephilanthropist.ca/original-pdfs/Philanthropist-12-1-120.pdf>’, (Last accessed on 20 April 2021)

- In **R. v. Robinson (1917), 41 D.L.R. 46 (Sask. C.A.)**[1], it was observed that three unifying elements underlie illegal activity for purposes of the lottery and games of chance provisions under Section 206, namely that:
 - (1) Winning depends (at least in part) on chance;
 - (2) Participation requires payment; and
 - (3) A prize is offered.
- In **R. v. Gardiner (1971), 2 C.C.C. (2d) 463 (Alta. C.A.)**[2] where the court held that nine decks of cards, standing alone, were equivocal and that it was necessary to take into account "the surrounding circumstances" to convict an accused of the offence of keeping devices for gambling.
- The Court further held that Canadian jurisprudence has generally required that all elements of chance be eliminated before a game could be considered to be pure of skill.
- In the case of **The Queen v. Topechka, [1960] S.C.R. 898**, the Supreme Court of Canada deliberated on the question of whether "William ten Strike" bowling machine is a "slot machine" contrary to the provision of the Criminal Code which make the keeping of common gaming houses illegal.[3]
- The Court observed that under section 170 of the Code, a machine used for vending services or amusements will be illegal, if the result produced by the machine is a matter of chance or uncertainty to the operator, or if different results as a consequence of the adjustment of the mechanism are obtained.
- The Court further observed that to be within the ambit of law, the player must control the game and not be at the mercy of a machine where skill is not the only element. The Court went on to observe the following in this regard:

"Skill might be successful or not, it may produce uncertain results, as in baseball, football, trap or skeet shooting, golf or hockey, but the uncertainty then comes from the player, and not from the mechanism of a machine which nullifies, the ability of the player."
- The Court while further analyzing the elements applied while playing this game held that;

"While there is some element of skill involved in the operation of the machine, in that one player may obtain a better result than another, it is still an offence if the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator. Chance or uncertainty to the operator must be present unless he can, without any possibility of failure, achieve any result that he wishes or unless the result is automatic."

[1] R. v. Robinson (1917), 41 D.L.R. 46 (Sask. C.A.); see also Peter CzeGledy, Social Network Gaming: A Canadian Perspective, June, 2013 available at 'https://www.airdberlis.com/docs/default-source/articles/social-network-gaming---a-canadian-perspective.pdf?sfvrsn=d30255d5_2', (Last accessed on 20 April 2021)

[2] R. v. Gardiner (1971), 2 C.C.C. (2d) 463 (Alta.C.A)

[3] The Queen v. Topechka, [1960] SCR 898

- The Superior Court of Justice of Canada considered the issue of elimination of chance for a game to be classified as that of “skill” in ***Play for Fun Studios Inc. v. Ontario (Registrar of Alcohol, Gaming and Racing)***[1]. The Court reviewed games that were played on a video terminal with a touch screen that was found in bars and other licensed premises. The player is informed how much he or she may be able to win and then they decide to place a wager. The player then participates in a skill-testing exercise that is dependent upon the quickness of reflexes. The player is aware of the potential award for the immediate but not for subsequent plays, which are randomly selected. The Court agreed with the Registrar that the case must be considered from the player’s perspective, but that a player with enough skill could “beat” the machine and, thus, the test in ***R. v. Topechka, [1960] S.C.R. 898*** (Supreme Court of Canada) for a game of skill was met.[2]
- The Ontario Court of Appeal overturned the decision of the Superior Court in its August 8, 2019 decision in ***Play for Fun Studios v. Ontario (Alcohol and Gaming Commission of Ontario)***[3]. It did so by relying on *R. v. Topechka, [1960] S.C.R. 898* (Supreme Court of Canada) on what is or is not a “game of skill”. The Court of Appeal quoted from the application judge’s reasoning to conclude that GotSkill was not a game of mixed chance and skill:

“[A] player of GotSkill who continuously obtained 110% on the skill task would ultimately win more than she lost. While how much a player can win over the next few plays is a matter of chance, a very skilled player will always be able to come out ahead if she plays long enough. Put another way, the player who has enough skill can “beat” the machine, so the machine cannot “defeat the ability of the player to obtain favorable results”: *Topechka*, at p. 900.”
- The Court of Appeal commented that “the chain of the application judge’s reasoning is correct until the last link” and proceeded to set out several findings that the application judge made that was also “correct” and which followed the common law, including decisions of the Supreme Court of Canada. The Court of Appeal then turned to the crux of the issue – the legal issue is not whether there was skill in the game, but whether the game is one of “mixed chance and skill”: any degree of chance that is part of the game will suffice. The Court of Appeal concluded that the application judge had lost sight of this principle.[4]

[1] [2018] O.J. No. 4578, 2018 ONSC 5190 (Ont. S.C.J)

[2] Donald Bourgeois, Is it a skill to know what is or is not a 'game of chance?', 25th Sept. 2021, available at '<https://www.iagr.org/industry-news/legal-update-games-skill/>'(Last accessed on 20 April 2021)

[3] *Play for Fun Studios v. Ontario (Alcohol and Gaming Commission of Ontario)*, 2019 ONCA 648 (Ont. C.A.).

[4] Donald Bourgeois, Is it a skill to know what is or is not a 'game of chance?', 25th Sept. 2021, available at '<https://www.iagr.org/industry-news/legal-update-games-skill/>'(Last accessed on 20 April 2021)

- In the above-said case of the Supreme Court of Canada, it was further discussed that Canada’s criminal law does not have a “dominant element” test for determining what is or is not a game of mixed chance and skill. While not all “chance” is relevant – for example, “unpredictable” such as a gust of wind affecting the outcome of a tennis game would not be considered – an element of chance that is systematic is relevant. And the assessment is conducted from the perspective of the player who is an average and not a very skilled player
- The Canadian Supreme Court further observed the following in this case:

“Pigeon J. rejected the argument that “mixed games in which skill is a dominant element” were games of pure skill for the Criminal Code. Pigeon J. said that to do so would “deprive of any effect the words ‘or mixed chance and skill’” and “would be contrary to Parliament’s clearly expressed intention.” It was clear, he said, “that Parliament intended to avoid the uncertainties involved in determining what is the dominant element and deliberately chose to include in the definition of ‘game’ all mixed games as well as games of chance.”

“If there is a “systematic resort to chance”, then the chance is an element of the game. If skill is also an element, it does not matter which is dominant: the game is one of mixed chance and skill. As there is a systematic resort to chance in GotSkill when it is played multiple times, GotSkill is, therefore, a game of mixed chance and skill.”



[1] R. v. Robinson (1917), 41 D.L.R. 46 (Sask. C.A.); see also Peter CzeGledy, Social Network Gaming: A Canadian Perspective, June, 2013 available at https://www.airdberlis.com/docs/default-source/articles/social-network-gaming---a-canadian-perspective.pdf?sfvrsn=d30255d5_2 (Last accessed on 20 April 2021)

[2] Play for Fun Studios v. Ontario (Alcohol and Gaming Commission of Ontario), 2019 ONCA 648 (Ont.C.A.)

CONCLUSION

- In Canada, there is a federal government with a criminal code that regulates gaming practices throughout the country in accordance with state law. In a number of landmark decisions, courts have examined the meaning of the terms "game of skill" and "game of chance." The jurisprudence in Canada on what is a "game of skill" or a "game of chance or mixed chance and skill" is not extensive.
- The court of law appreciated certain tests to determine the difference between game of skill and game of chance, but none of the tests were found conclusive. It was noted that there are three unifying factors that underpin criminal conduct for the purposes of Section 206 lottery and games of chance provisions, which are 1) winning depends (at least in part) on chance, 2) participation requires payment, and 3) a prize is offered.
- Further, the Canadian courts have relied upon two distinguishing criteria to decide whether a game is that of skill or of chance;
 - a. Whether the "skill requirement" is merely a device to camouflage an illegal scheme to dispose of property by chance.
 - b. Whether the "chance" portion of a contest involving chance and skill precedes the test of skill.
- It has been further discussed in the case of *Play for Fun Studios v. Ontario (Alcohol and Gaming Commission of Ontario)* that Canada's criminal law does not have a "dominant element" test for determining what is or is not a game of mixed chance and skill. It was ruled that the mere existence of skill in a game would not qualify it as a game of skill, and that if a game is played several times and involves a systemic reliance on chance, it is classified as a game of mixed chance and skill.
- Thus, a single component of skill or chance has not been extensively deliberated upon by the Courts, rather the focus has been on the fact that whether the game is just of chance or skill or a mixture of both. The same has been applied to determine that if it involves just skill, the game is legal and if it involves skill and chance, the game would be against the provisions of the Canadian Criminal Code.

CHAPTER V: CHINA (HONG KONG, MACAU AND TAIWAN)

- Generally, in mainland of China, gambling and gambling-related marketing practices are illegal under Article 303 of the Criminal Law of the PRC (Criminal Law) (as amended in 1997) and the Sixth Amendment to the Criminal Law. Under Article 303 of the Criminal Law of the PRC gambling is defined as an activity, for the purpose of making a profit, assembling persons to engage in gambling, opening or operating a gambling house or making gambling a profession.
- Hong Kong and Macau and Taiwan are classified as "special administrative regions," in which China administers each region's security and foreign relations while allowing each region to regulate its own domestic legislation, police, and economy. Certain types of gambling are permitted in both Hong Kong and Macau.

HONG KONG

- The Gambling Ordinance (Cap. 148) enacted on 17 February 1977 is the Hong Kong's primary gambling law governs the gambling law in the country. The common consensus is that gaming is illegal unless it comes under one of the statute's exemptions.
- Section 2 of the Act defines Gambling as the act of placing bets on the outcome of a game. Further section 2 defines the words "gaming," "betting," and "bookmaking" are all used to describe gambling. Section 2 also defines what is game of chance and skill i.e. "The chances of the game are not equally favorable to all the players, including among the players, the banker or other person by whom the game is managed or against whom the players stake, play or bet."
- A 'game,' which is a type of gambling, is broadly defined as 'a game of chance, a game of chance and skill combined, and a supposed game of chance or chance and skill combined,' while 'gaming,' on the other hand, is defined as 'the playing of or at any game for the purpose of earning money or other property, whether or not any person playing the game is at risk of losing money or other property. Under these broad meanings, any activity involving a factor of chance in which participants have a chance to win something is considered gambling and is therefore illegal. A lucky draw, which is also a lottery, is a classic example of a tournament. To legally conduct the game, the organizer must first secure a license and then adhere to the license's conditions.
- Since the concept of a game is "a game of chance, a game of chance and ability combined," the sport in question would not be considered a game if it is played solely on the player's skill rather than chance and skill. Aping-pong game played on a ping-pong table, for example, is not a game and the result is entirely determined by the players' skill, despite the fact that some sports players would attribute the outcome of a match to their "luck." This differs from someone's luck in a lucky draw, where the players had little influence on the outcome.



MACAU

- Like Hong Kong, Macau is a special administrative region of China. Gambling and casinos are legal and have been so since the 1850s when it was a colony of Portugal. In fact, Macau is the only territory in China where casino gambling is currently legalized.
- The main legislation regulating gambling in Macau is the Macau Gaming Law (Law 16/2001). The Macau Gaming Law sets out the legal framework for the commercial operation of different gambling products, with a particular focus on the commercial operation of casino games of chance. There is no general statutory definition of gambling in Macau. However, the Macau Gaming Law (Law 16/2001) defines games of chance as those in which the outcome is contingent, as it depends exclusively or predominantly on a player's luck.[1]

TAIWAN

- Gambling is illegal in Taiwan, according to the Republic of China's Criminal Code. On mainland Taiwan, state-run lotteries, such as the Uniform Invoice lottery, are the only legitimate forms of gambling. In 2009, the building of casinos on certain off-shore islands became legal.
- Taiwanese gambling rules were enacted by the Kuomintang (KMT) government in 1928. The conditions are simple they are spelled out in the Taiwan Criminal Code, which defines the penalties for illegal gambling. While the law states that social gaming is permissible, it also states that public betting on social occasions is illegal. Players will be fined or imprisoned for up to two years if they break the rules. Participants in the unlawful lottery risk being fined or imprisoned for up to two years. Since the legislation does not prescribe the appropriate penalty in the case of a person operating a lottery to compete with licensed lottery providers (Taiwan Sports Lottery), it is up to the relevant authority to decide the appropriate penalty.

[1] [https://uk.practicallaw.thomsonreuters.com/3-634-9931?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhcp=1](https://uk.practicallaw.thomsonreuters.com/3-634-9931?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1), (Last accessed on 20 April 2021)

Who Regulates Gambling in China?

- The different gambling related regulatory authorities in China and their responsibilities are represented below:[2]

Regulatory Authority	Role
State Council	Granting the authority and license of the two types of lottery
Ministry of Finance	Regulation and supervision of the entire lottery industry
Ministry of Civil Affairs	Regulation of the welfare lottery
General Administration of Sport	Regulation of the sports lottery
China Welfare lottery Issuance and Administration Centre	Administration of the welfare lottery
China Sports lottery Administration Centre	Administration of the sports lottery

CONCLUSION

In China, any or all sorts of gambling practices are prohibited barring in the regions of Hong Kong, Macau and Taiwan. The jurisprudence in China is not extensive when dealing with the concept of presence of elements of “chance” or “skill” in any game. Thus, due to restriction on gambling activities in all areas of China except three, this concept has not been delved in detail by the courts in China, as the litigations in this specific regard are next to non-existent.

[1] <https://www.gamblingsites.com/online-gambling-jurisdictions/china/>,(Last accessed on 20 April 2021)

PART D

**OVERSIGHT & REGULATORY
ECOSYSTEM
IN INDIA**



CHAPTER I: BACKGROUND

- The gaming industry is undergoing significant transformation. Participation and interest in gaming is increasing day-by-day. The gaming industry has recognized and sought the online platform as a game changer as the market moves from the game being a friends and family hobby to a flourishing online profitmaking venture. Enhanced networking, changing social media demands, and a rising young demographic base are all driving growth in the country's gaming industry.
- Indian regulations distinguish between games of skill and games of chance when it comes to governing monetary offers in the gaming industry. Participation and offering of money in games of chance is strictly prohibited. A game is known as a game of skill game when the outcome of the game is dependent on the players' abilities rather than on chance or luck, and thus it is considered outside the ambit of gambling and legal.
- Although gaming practices date back to the early 17th century, the advent of a digital age has revolutionized the gaming industry. The internet and mobile phones[1] have opened the door to a whole new realm of opportunities for this industry. As the trend of online gaming progresses, companies have substantially improved the gaming experience that they offer. The ever-expanding consumer base of gamers who have a vast variety of online gaming options has resulted in fierce rivalry between businesses. As a result, game companies are constantly looking for new ways to improve their gaming experience that they offer to customers and maintain customer interest. The industry's rapid growth has necessitated the development of a regulatory system to ensure fairness and transparency.
- However, the regulatory and oversight environment in certain States in India is more hostile than others and the below presented recent developments give an overview of the same.

[1] Indian Express, Available at <https://indianexpress.com/article/technology/gaming/90-of-online-gamers-in-india-pick-smartphones-over-pcs-consoles-7271667/>, (Last accessed on 05 May 2021)

Recent Development in Gaming Laws across States in India

- Various online poker, rummy and fantasy sports companies such as Adda52, Rummy Circle, Junglee Rummy, MPL, Paytm First Games etc. are operating online real money games. The logic behind offering online poker, rummy or fantasy sports for stakes is that ‘games of skill’ are exempted from the state gambling or gaming laws in many states across the country and court judgments allow such games to be classified as games that are based on skills rather than luck of individuals.
- However, if one carefully sees the Terms and Conditions of most of these websites, the services of these websites are not available in some states of the country such as Assam, Odisha, Andhra Pradesh, Telangana, Tamil Nadu, etc. The reason for this exclusion is that gambling laws in these states neither recognize nor exempt skill-based games from the ambit of gambling and thus club all games, whether skill or chance based, when played for stakes or money, under the bracket of gambling. Interestingly, none of these websites have excluded players from Arunachal Pradesh from the list of banned states although the law which governs gambling and betting in the state of Arunachal Pradesh, the Arunachal Pradesh (Gambling) Prohibition Act, 2012, makes playing games for stakes clearly illegal. Unlike the Public Gambling Act or state laws in some other states, which exempt ‘games of mere skill wherever played’ from the ambit of gambling, under Section 13 of the Arunachal Pradesh (Gambling) Prohibition Act, 2012, under the heading ‘Exemption of Games of Mere Skill’ only games ‘played without involving any money and merely for the sake of entertainment’ are excluded from the criminal provisions of the law.
- On 15th Feb 2021, a Public Interest Litigation (PIL) was filed before The Hon’ble Kerala High Court to seek action against online portals that promote online rummy and gambling. The HC directed the government to file a return and in response to it the state government has said that it has amended the Kerala Gaming Act, 1960 to ban online rummy. The ban is in immediate effect.

[1] Cricket Prediction, Available at <https://cricketprediction.com/gambling/are-real-money-gaming-companies-operating-against-the-law-in-arunachal-pradesh/> (Last accessed on 05 May 2021)

[2] Cricket Prediction, Available at <https://cricketprediction.com/gambling/rummy/kerala-govt-bans-online-rummy/> (Last accessed on 05 May 2021)

- The Tamil Nadu State government passed a bill in the assembly on 4th February 2021, banning online betting practice in the state. The respective Act states that:

“No person shall wager or bet in cyberspace using computers, computer system, computer network, computer resource, any communication device or any other instrument of gaming by playing rummy, poker or any other game or facilitate or organize any such wager or bet in cyberspace.”[1]

The Tamil Nadu state government has also intimated the Madras High Court that private companies involved in offering online rummy stakes will not be able to seek protection under Article 19(1) (g) of the Indian Constitution, which provides protection in the form of a right to carry on occupation, trade or business because gambling cannot be considered a trade or business.[2]

- Interestingly, in order to deal with financial crunches faced by the Maharashtra Government, reportedly legalizing online betting and gaming is being considered as the tax imposed on such activities can lead to a mobilization of at least Rs. 2,500 Crore from the operators.[3]
- In ***Avinash Mehrotra v. Union of India***[4], the division bench of Delhi High Court seeks Centre's stand in PIL to ban gambling, betting websites as gambling and wagering are per se illegal according to the laws of our country, and have historically been looked at as vices. The petitioner has asserted that online gambling is a far worse evil than regular gambling on account of its ease of access, ability to be played on the go etc. Concerns regarding addiction to these games amongst youngsters have also been raised in the plea. It is further claimed that such online gambling websites are potentially a great place for carrying out hawala operations, money laundering, etc. In spite of their obvious illegality, websites offering online gambling are available in India, primarily due to the failure of the executive to take appropriate steps to enforce the law, it is argued. The petitioner further challenges the Centre's response to this representation that in spite of the powers under Sections 67, 69 and 69A of the Information Technology Act, 2000, it did not have the legislative competence to deal with the prayer to ban or block such online gambling websites. Action was also sought against "unscrupulous" owners, proprietors and promoters of the online gambling websites.

Pertinently, the said matter is pending consideration before the Hon'ble High Court of Delhi and till date with the record of proceedings indicating that the same is still at nascent stages of proceedings.

[1] Cricket Prediction, Available at, <https://cricketprediction.com/gambling/online-betting-banned-in-tamil-nadu-after-assembly-passes-bill-1/>(Last accessed on 05 May 2021)

[2] Cricket Prediction, Available at <https://cricketprediction.com/gambling/gambling-no-trade-or-business-tamil-nadu-govt-tells-madras-high-court/>(Last accessed on 05 May 2021)

[3] Cricket Prediction, Available at, <https://cricketprediction.com/gambling/maharashtra-considering-legalising-online-gambling-cites-financial-benefits/>(Last accessed on 05 May 2021)Cricket Prediction, Available at, <https://cricketprediction.com/gambling/maharashtra-considering-legalising-online-gambling-cites-financial-benefits/>(Last accessed on 05 May 2021)

[4] W.P.(C)9436/2020

- In the matter of *Dhiraj Kumar Vs State Of Karnataka*[1], the Petitioner prayed for quashing the entire proceedings of Criminal Case No. 3838/2017 and thereby questioned the raiding of “Winners Recreational Club” for playing the game of Ludo and against the offences registered against the Petitioner along with others under Sections 79 and 80 of the Karnataka Police Act, 1963. In the said matter, the High Court while giving an opportunity to the prosecution to prove that Ludo was a game of Pure Chance stated that the charge sheet filed had some details pertaining to the manner in which the game of Ludo was played and as to how the game of Ludo was purely a game of chance. The High Court left it to the Trial Court to adjudicate upon the matter. The High Court, held as follows:

“Though details have not been given, it is sufficient at this stage that some explanation is given as to how that game is played and therefore, an opportunity should be given to the prosecution to explain during the course of trial as to whether it is a pure game of chance or whether any skill is required. Therefore, I do not want to give any final finding so far as this aspect is concerned. It is left to the jurisdiction of the Trial Court on the basis of evidence to take appropriate decision in this regard. However, the said ground taken up before this Court is not sufficient at this stage to quash the proceedings.”

This matter is still pending in the trial court of the JMFC IV Court, Mangalore in C.C 3850/2017.

- In the same set of facts and circumstances, another petition was filed before the High Court of Karnataka by Mr. Mohammad Haneef (Criminal Petition No.2184/2018), wherein the Karnataka Police while raiding the “Winners Recreational Club” had found the Petitioner playing the game of “Andar-Bahar.” This was similarly registered against all the players under Section 79 and 80 of the Karnataka Police Act, 1963. However, this charge sheet failed to lay out the methodology of the game “Andar-Bahar” and how the said game was a game of pure chance and not skill. The High Court accordingly observed as follows:

“But it is not stated anywhere in the above said charge sheet as to how the 'Andar-Bahar' or 'Ulaayi-Pidaayi' game was being played by the people and how it exactly amounts to a game of chance. Except stating that, the people were playing 'Andar-Bahar' game, nothing has been elucidated in the entire charge sheet papers so as to come to a definite conclusion that, the said game is a pure game of chance and not a game of skill. Though the Police have investigated the matter on the basis of the orders passed by the learned Magistrate, but the contents of the charge sheet do not make out a case for the offences under Sections 79 and 80 of the Karnataka Police Act.”

Stating the same, the High Court quashed the said petition. While doing so, the High Court also cited the matter of *Eranna and Others Vs State of Karnataka* wherein the High Court of Karnataka had held that "unless the prosecution proves how the game of 'Andar-Bahar' is played and in what manner the bettings are recorded, it could not be inferred that it was a pure and simple game of chance and not a game of skill."

[1] CRL.P 2183/2018.

NITI Aayog's Guiding Principles for Regulation of Online Fantasy Sports Platforms[1]

- In December 2020, NITI Aayog, the Indian Government's policy think-tank published a discussion paper with draft guiding principles for the online fantasy gaming sector ("Discussion Paper"). In this document, NITI Aayog has noted that the number of users in the online gaming and fantasy sports sector has significantly increased in recent years, and the sector now has tremendous potential to attract foreign investment, increase innovation and generate employment in India.
- NITI Aayog also noted that India's current legal framework on online fantasy sports platforms ("OFSPs") lacks clarity and uniformity. This ambiguity increases the compliance burden on companies and consequently stifles the industry's growth potential. In light of the industry's rapid expansion, NITI Aayog has sought formal recognition for OFSPs in India and has proposed certain guiding principles to help create accountability, transparency and a comprehensive governance mechanism for all stakeholders.



[1] NitiAayog, Available at https://niti.gov.in/sites/default/files/2020-12/FantasySports_DraftForComments.pdf (Last accessed on 05 May 2021); see also Mondaq, Available at <https://www.mondaq.com/india/gaming/1032772/-niti-aayog39s-guiding-principles-for-regulation-of-online-fantasy-sports-platforms> (Last accessed on 05 May 2021).

Key Observations

- **US Fantasy Sports and Industry:** The Draft Guidelines notice that, based on many industry surveys, India has surpassed the United States of America as the largest online fantasy sports market by user base. According to the Discussion Paper, many OFSPs in the United States banded together in 1995 to create the Fantasy Sports and Gaming Association ("FSGA"), a business organization tasked with representing OFSPs and promoting legal digital fantasy sports. The FSGA has assisted the development of DFS in the United States over time by coordinating conventions, working with OFSPs, ensuring lawful involvement, and ensuring customer rights.

In acknowledgment of the skills required to participate in fantasy football, the Unlawful Internet Gaming Enforcement Act (UIGEA), which prohibits internet gambling, has provided a safe-haven for online fantasy sports. The winning outcome of fantasy sports games must represent the relative knowledge and ability of the players, among other requirements. This safe-harbor was based on the standard of predominance of skill over chance, expressed as a prerequisite in the safe-harbor that the winning outcome of fantasy sports games must reflect the relative knowledge and skill of the participants, among other requirements.

- **Barriers to Ensuring Uniform National-Level Consumer Protection in India:** Though OFSPs function on a pan-India basis through online media, their control is handled differently by each state. As a consequence, fantasy sports users' interest of transparency, accountability, honesty, and fairness can differ from state to state, resulting in an inconsistent experience and the possibility of forum/jurisdiction shopping. This may even deprive sports fans in some states of their right to engage actively on these OFSPs.
- **Industry Recognition:** The Discussion Paper acknowledges the importance of providing standardized standards and operating procedures to the DFS industry. According to the NITI Aayog, this will enable OFSPs to develop pan-India platforms while also assisting the industry in creating jobs and attracting foreign investment. The NITI Aayog has backed proposals for a principle-based policy implementation for the fantasy sports industry, believing that institutional approval would enable OFSPs to concentrate on creativity and scale.

It's worth noting that, now that fantasy sports have become recognized as a game of ability, it's much more important to protect the market and OFPS users from unscrupulous operators who use the guise of fantasy sports to trick users into games of dubious legality and tarnishing the industry's reputation and prospects, as well as the consumer's confidence and belief that the result of a fantasy sports game would be decided by a superior display of talent compared to other users. The SLPC Report recommended the establishment of consistent guidelines and the construction of a centrally controlled and nationally accessible safe-harbor for games of ability that follow these guidelines as part of its call for changes in support of the above.



The Way Forward

The Discussion Paper proposes the following guiding principles for implementation by the industry in a structured manner.

- **Skill Based Contests:** According to the Discussion Paper, all OFSPs must only provide tournaments and games that are skill-based, meaning that the probability of winning is determined by the skill of the players rather than chance. As a result, the Discussion Paper suggests that OFSPs keep statistical data on all users and send it to a self-regulatory body ("SRO") to show that these tournaments and games are skill-based.

If an OFSP wants to provide a pay-to-play version of a contest that differs from the formats that have been accepted by Indian courts, it must first get permission from an SRO-created independent review committee. According to the NITI Aayog, this review committee should have the authority to establish rules or make format recommendations that would be binding on OFSPs.

- **DFS by Minors:** OFSPs do not allow users under the age of 18 (eighteen) to participate in paying competitions or sports. Minors should be protected by OFSPs by putting in place the required protections.
- **Reflection of Real Scenarios:** OFSPs should strive to include competitions and activities that are as similar to real-world games and contests as possible. To put it another way, new elements of chance cannot be added until they have been approved by the above-mentioned independent review committee.

- **Rules and Regulations:** All participants in a game/contest should be able to see the conditions of entry, and the same rules, opportunities, and prizes should be applicable to all users equally. In the event of a query, consumers should have access to a resolution process.
- **Gambling Services:** OFSPs should not offer or advertise gambling services or games of chance on their platforms. The OFSPs are required to implement industry-wide policies to prevent use of their platform for illegal purposes.
- **Advertising Standards:** OFSPs should ensure that advertising of contests and games on their platforms conform to the advertising standards laid out by the Advertising Standards Council of India ("ASCI"). In particular, such advertisements should not imply or represent that the winnings of a contest are 'assured' or 'guaranteed'. Similarly, participation in fantasy sports should not be represented as a source of sustenance or livelihood.
- **Immunity from Criminal Prosecution:** According to the Discussion Paper, the SRO can work with state governments to obtain protections for OFSPs from criminal prosecution or sanction as long as they follow the guiding principles outlined above.

While the above developments in the regulatory space give an indication of a gradual shift towards introduction of further regulations that are needed to clarify numerous stances on issues, the licensing regime in the States across India throws light on the pragmatic side of regulations, and the same are discussed in the following Chapter.



CHAPTER II: LICENSING OF GAMING UNDER STATE ACTS

In India, any entity desirous of obtaining a gaming license for online gaming needs to incorporate the company in India in addition to disclosing and submitting the complete identification of the ultimate beneficial owner with a detailed and transparent description of the games to be given. The last step involves attainment of equipment for the transit server which will transmit all the data of the gambling project to the jurisdiction for the control conduction. One needs to have hardware based in India with at least the client database on the local server in order to comply with the permanent establishment requirement.[1]

Sikkim

1. Licenses are issued by the State Government under the provisions of the Sikkim Online Gaming (Regulation) Act, 2008 for the purpose of operating Online Games and Sports Games, including their organization, management, or promotion, and the negotiation or receiving of bets.
2. Section 3 of the Act provides that any online game that has been granted license by the State Government shall not be played, organized or exhibited to any person publicly, except through online gaming websites.
3. Any person who desires to obtain a valid license shall make an application in prescribed form under Section 4 of the Act to the State Government along with Rs. 500 as fees.
4. The state government then conducts an enquiry as it deems appropriate and may further grant a provisional license based on the above after the duly payment of INR 1, 00, 000 that is valid for 12 days.
5. If the licensee is required to set up an infrastructure as per the terms of the provisional license, the state government may further grant the regular license upon the payment of fees i.e., INR 1, 00, 00, 000.[1]
6. Under section 5 of the Act a license granted under the provisions of this Act shall remain valid for a period of not more than 5 years. In order to renew the same, the licensee needs to pay the State Government a renewal fee, not later than 5 years from the receipt of license.
7. Under section 6 of the act an Applicant for the license shall pay to the State Government at regular interval fees called the “Online Gaming Levy”.
8. Section 7 of the act allows a person to transfer his License to any other person
9. Section 13 mandates for person having the license to maintain accounts and submit the same to the state authority and if failed to do so penalty can be imposed on them as provided under section 14.
10. License has to exhibit on the respective website as a legal compliance mentioned under section 16 of the act.

[1] Industry Module, Gambling, Manupatra (Last accessed on 03 May 2021).

Nagaland

- The Nagaland Prohibition and promotion and Regulation of Online Games of Skill Act, 2015, consist of provisions pertaining to licenses for the purpose of gaming and gambling.
- Under the Act, once a license has been obtained under this Act, wagering or betting on online 'games of skill' or making profit by providing a medium for playing 'games of skill' shall not amount to gambling so long as they are being provided to players and are being accessed by players operating from territories where 'games of skill' are exempted from the ambit of gambling.
- Section 4 of the Act empowers the Licensing Authority to determine and add to the list of games which are 'games of skill'.
- Application must be made to the licensing authority, i.e., the Finance Commissioner ("Nagaland Authority"), identifying the games for which the license is being sought and must be accompanied by documents in support of the credentials of the promoters, audited financials, the software technology platform, a proposed business plan and financial projections along with the fees of INR 50,000.[1]
- The licensing Authority shall decide upon the issuance of license within a period of 6 months from the date an application has been received applying for the same.
- Section 7 of the Act prescribe the manner under which licenses will be issued under the act:
 - It is mandatory for any company to acquire a legal license as prescribed by this Act in order to offer "games of skill" on their website, smartphone app, television, or any other internet media and gain money from them, whether by advertisement revenue, taking a percentage of gaming winnings, charging a fixed fee for membership or downloading the game, or any other method.
 - The license may be issued to any person or entity upon due satisfaction of the terms and conditions prescribed in the license, and the satisfaction of the issuing authority.
 - Only an individual or company that is registered in India and has a significant ownership and controlling interest in India is eligible for a license under this Act. The executive decision-making powers and processes will have to be carried out from within India's territorial borders, as would the infrastructure support, such as website hosting and maintenance, server location, and so on shall remain in India.
 - A license under this Act shall be issued only to a person/Company/entity/firm which has no interest in any online or off line gambling activities, in India or abroad.
 - The State Government may, by notification prescribe the manner and format for the applications for license, including the terms and conditions of the license maybe issued under this Act.
 - The State Government may, if so required, frame rules for proper implementation of the Act. Such rules may also determine the terms and conditions under which a license may be issued to an applicant.

- Section 11 of the Act also provides various provisions pertaining to the operation of companies holding a valid license under this Act.
- Section 9 of the Act prescribes the situations under which an application for licenses can be refused.
- Section 8 of the Act prescribes the situations under which licenses can be terminated by the authority.
 - Delay in payment of fees
 - Breach of term and condition of the license

Maharashtra and Gujarat

Under the Bombay Prevention of Gaming Act, 1887 license may only be granted for the purpose of wagering or betting upon a horse-race or dog race when such wagering or betting takes place

- a. (n the day on which such race is to be run, and
- b.in an enclosure set aside for the purpose by the licensee of the race-course on which such race is to be run, in compliance with the terms and conditions of the license provided under section 4 of the Bombay Race-Courses Licensing Act, 1926 or, as the case may be, of the Maharashtra Dog Race-Courses Licensing Act, 1976], in respect of such race-course.

West Bengal

- The West Bengal Gambling & Prize Competition Act, 1957 allows horse racing after being granted license for the same by the State Government.
- Under Section 2B of the Act owner, lessee or occupier of any race-course may apply to the State Government for a license for horse-racing or pony-racing on such race course.
- The State Government may grant licensee under Section 2C of the Act if condition mentioned under section 2C(2) are fulfilled:
 - the pay men of such license fee as may he prescribed,
 - the amount of stakes which may be allotted for different kinds of horses or ponies,
 - the measures to be taken for the training of persons lo become Jockeys,
 - Such other matters, whether directly or indirectly connected with the horse-racing or pony-racing for which, in the opinion of the State Government, it is necessary or expedient lo make provisions in the license.
- Section 2C(3) of the Act provides that the State Government may at any time cancel license granted in the event of any breach of the conditions subject to which it was granted.
- Chapter III of the Act provides for provisions pertaining to Prize Competitions.

- As per Section 22 of the Act no person shall promote or conduct any prize competition in which the total value of the prize to be offered in any month does not exceed one thousand rupees unless he has obtained a license for the same under section 23 of the Act by writing an application to the licensing authority (any officer or authority appointed by the State Government, by Notification in the Official Gazette, for the purpose of granting licenses) in the prescribed format.
- Section 25 of the Act prescribed the conditions under which License can be cancel or suspend under following condition:
 - There has been a breach of any of the conditions subject to which the license was granted;
 - that the holder of license has contravened any of the provisions of section 24 which mandates to keep accounts and submits the same to concern government authority.

Assam

The Assam Game and Betting Act, 1970 prohibits any kind of gambling activities except in the case of horse racing wherein betting takes place:

- On the day on which the race has been fixed to run
- in an enclosure which the racing club or the stewards thereof controlling such race have with the permission of the State Government set apart for the purpose, and
- With a licensed book-maker for horse racing or by means of a totalizator defined in section 14 of the Assam Amusements and Betting Tax Act, 1939.

Meghalaya

The Meghalaya Prevention of Gambling Act, 1970, prohibits all kind of gaming except for horse racing wherein the wagering or betting takes place:

- On the date on which the race is to be run
- In an enclosure which the stewards controlling the race have, with the permission of the Government, set apart for the purpose, an
- With a licensed book maker or by means of a totalizator as defined in the Assam Amusements and Betting Tax, 1939.

Tamil Nadu

The Tamil Nadu Gaming Act, 1930 prohibits all kind of gaming and does not provide for any provisions pertaining to licensing of the same.

Himachal Pradesh

Public gambling (Himachal Pradesh amendment) Act, 1976 does not provide for any provisions in regards to licensing and prohibits gaming of all forms.

Pondicherry

Pondicherry Gaming Act, 1965 does not provide for any provisions in regards to licensing and prohibits gaming of all forms with an exception under Section 10 which allows games of skill in the state.

Orissa

The Orissa Prevention of Gambling Act, 1955 prohibits all kind of gaming and does not provide for any provisions pertaining to licensing of the same.

Telangana

Telangana Gaming Act, 1974 prohibits all kind of gaming and does not provide for any provisions pertaining to licensing of the same

Rajasthan

The Rajasthan Public Gambling Ordinance, 1949 does not provide for any provisions in regards to licensing and prohibits gaming of all forms.

Delhi

The Delhi Public Gambling Act, 1955 prohibits every kind of gaming except in the case of horse racing wherein the betting or wagering takes place:

- on the day on which the horse-race is to be run ;
- in an enclosure which the stewards controlling the horse-race have, with the sanction of the Government set apart for the purpose; and
- with a licensed book maker ; or by means of a totalizator ; but does not include a lottery.

Andhra Pradesh

Andhra Pradesh of Gaming Act, 1974 does not provide for any provisions in regards to licensing and prohibits gaming of all forms with an exception under Section 15 which allows games of skill in the state.

Goa and Goa, Daman and Diu Public

- The Goa, Daman and Diu Public Gambling Act, 1976 does not define the provision to register the license in the state but under section 4A of the act provides provision under which license can be cancelled. If any place where any business or any other activity is being carried on under a license granted under law for the time being in force, and such place is used for the purpose of gaming in contravention of the provisions of this Act and/or the rules made, the licensee of such business or other activity may, on conviction, be liable for suspension of such license for such period as deemed fit or for cancellation of such license.
- Department of Home by notification dated 9th November 1955 authorized game of electronic amusement/slot machines.
- Under Section 2 of such notification allows any person desirous of obtaining a license for installing and operating games of electronic amusement/slot machines can make an application to the Authority in Form 'A'.
- The application must also be verified by an individual or a person having due authority to act on behalf of him or by any partner managing the business thereof or by an body corporate (including a company, a cooperative Society, corporation or local authority) by a person duly authorized to act in that behalf.
- With the application such person has to deposit prescribed license.

Kerala

Kerala Gaming Act, 1960 does not provide for any provisions in regards to licensing and prohibits gaming of all forms with an exception under Section 14 and 14A which allows games of skill in the state or any other game if they are satisfied that in any game the element of skill is more predominant than the element of chance, by notification in the Gazette.

Karnataka

- Karnataka Police Act, 1963 does not prohibit gambling in the state but under Karnataka Race Courses Licensing Act, 1952 which applies to complete state except Bellary District allows wagering or betting on horse race course.
- Section 4 provides license of horse racing in the state.

Uttar Pradesh

Uttar Pradesh Public Gambling Act, 1961 does not provide for any provisions in regards to licensing and prohibits gaming of all forms.

Punjab

Public Gambling Act, 1867 (Made applicable to Punjab by 1929 Amendment of Act) does not provide for any provisions in regards to licensing and prohibits gaming of all forms.

Other States and UTs

The below mentioned states have adopted Public Gambling Act, 1867 in its entirety, which prohibits all kind of gambling and does not provide any provision of licensing:

Andaman Nicobar, Arunachal Pradesh, Chandigarh, Dadra and Nagar Haveli, Haryana, Lakshadweep, Madhya Pradesh, Mizoram, Chhattisgarh, Manipur, Tripura, Bihar, Jharkhand, Jammu & Kashmir, Uttarakhand and Ladakh.



CHAPTER III: ADVERTISING REGULATIONS

In India, there are currently no precise rules or regulations governing gaming/gaming operators or companies or their promotional practices. As a result, it is critical that online gaming operators/companies adhere to stringent self-regulation principles to ensure that their ads are socially conscious and that consumers are not abused. Since, no concrete regulations are available, certain industry specific organization such as Internet And Mobile Association of India (IAMAI) and Advertising Standards Council of India (ASCI) have attempted to regulate this area by introducing certain guidelines. These guidelines are intended to be a self-regulatory checklist, and signatories are required to adhere to and behave responsibly under industry standards.

Internet and Mobile Association of India

The Internet and Mobile Association of India (IAMAI) is a not-for-profit body registered as Charity under the Societies Registration Act, 1860. Its mandate is to expand and enhance the online and mobile value-added services sectors. It is dedicated to presenting a unified voice of the businesses it represents to the government, investors, consumers and other stakeholders.[1]

The guidelines of IMAI are not of binding nature but have persuasive value. The guidelines of IMAI are as follows:

- **Must ensure that marketing communications do not mislead consumers**
 - Advertisements should not be offensive to the generally accepted standards of public indecency
 - The advertisements should never target minors or induce them to indulge in gaming in any manner whatsoever directly or indirectly
 - There should not be publishing/distributing/aiding news or information that would aid or facilitate betting and gambling in any way
 - Gaming companies should not use any phrase or phrases that misrepresent the likelihood of winning in any manner whatsoever
 - The advertisements should not present gaming as an income opportunity or an alternative employment option
- **Incentives:** Must ensure that all significant conditions which apply to the marketing incentives are provided transparently and prominently to consumers
- **Qualification:** Advertisements of gaming products or services, including games of chance or any games that do not qualify as Games of Skill are prohibited except as may be legally permitted or which may have approval from a reputable law firm that qualifies and authorize a game as a Game of Skill
- **Mass Media Advertising (All ATL like TV, OOH, Print, etc.):** There should be no mention of cash/gross winnings/gross prize money/etc. (including referral bonus, cash bonus, etc.) in any mass media advertising

[1] IMAI, Available at <https://www.iamai.in/> (Last accessed on 05 May 2021).

- **Competition:** No competition or ads hijacking on placement like any other brand's own keywords on Google results or direct / in-direct attempts to show any other brand in a negative light in any kind of promotions. Avoiding the usage of Blackhat techniques that undermine Google's algorithm and/or be disruptive to another brand
- **Messaging:** When messaging includes winning/mention of money (on BTL like digital platforms), it is important to avoid misleading claims. E.g., Operators should say Rs.x Lakhs in Winnings, not Win Rs.x Lakhs if x is the total prize pool available
- **Correct Terminology:** No ads to include words like betting, gambling, chance, luck, wager, etc. and also not use phrases similar to "try your luck", "get lucky", "Chance to Win", "Anyone can win", "You can win big", which compromise skill element. There should be no linkage with gambling, betting, wagering, lottery, etc. Ads should always promote words like skill, intelligence, IQ, research, etc.
- Industry Data, Brand Positioning, Use of Disclaimers, Competition Referencing: Follow ASCI guidelines.
- **Penalty Clause:** Violation may be reported to the gaming council and the council may consider taking appropriate action basis the magnitude of the offense
- **Lockdown-related Marketing:** During the time in which complete/partial lockdown is in force, there should be no mention of the words lockdown, coronavirus, pandemic, etc. in any ad campaigns. Direct or indirect linkage or mention of tapping frustration, depression, or boredom of the public in lockdown to play online games/gaming should be avoided.



Advertising Standards Council of India

The Advertising Standards Council of India (ASCI), established in 1985, is committed to the cause of Self-Regulation in Advertising, ensuring the protection of the interests of consumers. ASCI was formed with the support of all four sectors connected with Advertising -- Advertisers, Advertising Agencies, Media (including Broadcasters and the Press) and others like PR Agencies and Market Research Companies. The Consumer Complaints Council (CCC) is ASCI's heart and soul. It is the dedicated work put in by this group of eminent people that has given tremendous impetus to ASCI's work and self-regulation in advertising.[1]

The ASCI issued guidelines for the benefit of the advertisers and broadcasters to ensure that the advertisements are transparent and protect consumers. Through a Press Release of 24.11.2020 ASCI has issued the Guidelines and had proposed that these Guidelines would be effective from 15th December, 2020.

The guidelines are as follows:[2]

- No gaming advertisement may depict any person under the age of 18 years, or who appears to be under the age of 18, engaged in playing a game of ONLINE GAMING FOR REAL MONEY WINNINGS, or suggest that such persons can play these games.
- Every such gaming advertisement must carry the following disclaimer:
 - Print/static: This game involves an element of financial risk and may be addictive. Please play responsibly and at your own risk
 - Such a disclaimer should occupy no less than 20% of the space in the advertisement
 - It should also SPECIFICALLY meet disclaimer guidelines 4 (i) (ii) (iv) and (viii) laid out in the ASCI code
 - Audio/video: "This game involves an element of financial risk and may be addictive. Please play responsibly and at your own risk."
 - Such a disclaimer must be placed in normal speaking pace at the end of the advertisement
 - It must be in the same language as the advertisement
 - For audio-visual mediums, the disclaimer needs to be in both audio and visual formats
- The advertisements should not present 'Online gaming for real money winnings as an income opportunity or an alternative employment option.
- The advertisement should not suggest that a person engaged in gaming activity is in any way more successful as compared to others.

[1] IBF India, Available at <https://www.ibfindia.com/advertising-standards-council-india-asci> (Last accessed on 05 May 2021).

[2] Ministry of Information and Broadcasting, Available at <https://mib.gov.in/sites/default/files/Advisory.pdf> (Last accessed on 05 May 2021)

Further, the Rajasthan High Court in the case of *Chandresh Sankhla v. State Of Rajasthan*[1] held that Online fantasy game -“Dream 11” does not involve offences of betting and gambling and also examined the role of the Federation of Indian Fantasy Sports (FIFS) as a self-regulatory body for the online gaming universe. The court spoke favorably of self-regulation, noting that the FIFS charter was focused on ensuring that members offered games of skill and not games of chance. This is an important development in digital markets because it provides legitimacy to a mode of regulation that is hotly contested in Indian policy discourse.

The FIFS model serves as a useful template for the design of self-regulatory mechanisms in India. First, it demonstrates the value of self-identification within a very heterogenous digital space. The explosive growth of various digital applications and services can make differentiation between different types of entities a challenge for the State. Illustratively, a seemingly homogenous category such as ‘gaming’ can include very different entities – eSports or competitive video-gaming tournaments, multiplayer online video games like Fortnite and the now-banned PUBG, casual games such as Angry Birds, and fantasy sports as offered by the likes of Dream11. Therefore, self-identification is perhaps the quickest and clearest means of categorization. Further, **the FIFS has adopted the Internet and Mobile Association of India (IAMAI) Self-Regulation Guidelines on Advertising Online Gambling.** In doing so, the federation has pre-empted potential challenges linked to misleading advertising practices, and demonstrated a willingness to be proactive.[2]

Lastly, the Information Technology Act, 2000 applies to the internet medium and allows the Government and the courts the power to order the blocking of websites hosting unlawful content. Rule 3(2)(b) of the Information Technology (Intermediaries guidelines) Rules, 2011 prescribes due diligence on an intermediary that prohibits them to display, upload, modify, publish, host, transmit, update or share any information which encourages gambling in the country.[3]

[1] 2020 SCC OnLine Raj 264.

[2] The Print, Available at <https://theprint.in/opinion/fantasy-sports-like-dream11-is-a-good-candidate-for-self-regulation/534104/>(Last accessed on 05 May 2021)

[3] National Information Center Guwahati, Available at <https://dispur.nic.in/itact/it-intermediaries-guidelines-rules-2011.pdf>. (Last accessed on 05 May 2021)

PART E

**STRATEGIES TO
MITIGATE
REGULATORY IMPLICATIONS**



Social Gaming and its viability in India

- In the policy space prevalent in the United Kingdoms, Social Gaming refers to online gaming on certain platform where social interaction is possible. In some cases, the label 'social' is a misnomer, as the social element need not be synchronous (playing simultaneously with friends), but may be asynchronous (playing the same game as friends, but not simultaneously, for example sharing achievements or high scores) or absent altogether (playing alone on a website). It should also be noted that the terminology 'gaming' is used in its everyday sense (the act of playing games), not the definition present in UK's Gambling Act 2005 (playing a game of chance for a prize).[1]
- These games are majorly games of skill which do not attract any legal action even if there is any monetary prize involved (except in certain jurisdictions)[2]. But in some cases these games may also rely partially or wholly on chance. Social gaming platforms which are purely games of chance which also involves a prize, may use gambling mechanics such as cards or dice but, crucially from a narrow legal perspective, if the prize is not money or money's worth, they are not gambling under UK legislation.[3]
- There are certain social games which mimic gambling games. Social gaming sites offering poker and casino games avoid attracting regulation by not offering prizes that are reducible to monetary value. Matters become complicated when social games of chance offer prizes in virtual money. If no real money is paid out to players and winnings have no monetary value, social games will not attract regulation under the 2005 Act because the virtual money does not constitute money's worth i.e., Where in-game items or currencies which can be won, traded or sold can be converted into cash or exchanged for items of value, under gambling legislation they are considered money or money's worth. This is on the basis that it is not exchangeable for any goods or services and cannot be traded for anything other than additional play (that is, a "closed loop").

[1] Gambling Commission, United Kingdom, Social Gaming Report 2015

[2] Rahul Chaudhary, JayashreeParihar&AasthaSaxena, Skill gaming in India: Legal by chance, daily Guardian, July 14 2020, Available at <https://theguardian.com/skill-gaming-in-india-legal-by-chance/> (Last accessed on 05 May 2021)

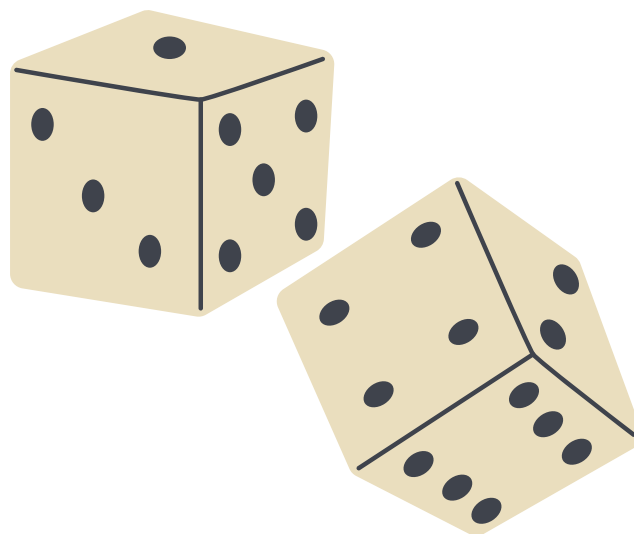
[3] Gambling Commission of UK, Available at <https://www.gamblingcommission.gov.uk/for-the-public/Safer-gambling/Consumer-guides/Social-gaming.aspx#:~:text=Looking%20into%20the%20boundaries%20between%20social%20gaming%20and%20commercial%20gaming&text=While%20the%20data%20suggests%20that,group%20who%20spend%20significant%20amounts.> (Last accessed on 05 May 2021)

[4] Gaming in the UK (England and Wales): overview, Julian Harris and BaharAlaeddini, Available at [https://uk.practicallaw.thomsonreuters.com/6-634-9345?transitionType=Default&contextData=\(sc.Default\)&firstPage=true#co_anchor_a853885](https://uk.practicallaw.thomsonreuters.com/6-634-9345?transitionType=Default&contextData=(sc.Default)&firstPage=true#co_anchor_a853885) (Last accessed on 05 May 2021)

- In India while there is no recognition for Social Gaming, the very concept can be evolved as a significant strategy for influencing the regulatory space for gaming industry. Terming a game such as Ludo as being “Social” is dependent upon the format and the content. When there is no prize of money or money’s worth involved in the game of chance it is not considered as gambling. But the position of monetary prize involved in online game of skill is different because it depends on the individual rules of each and every state. In such a regulatory space, it is easier for achieving consensus on the social nature of a game than any of the other elements as may be prevalent in the quagmire of regulations and juxtapositions.

By way of example, since “betting and gambling” comes under the State List (Entry 34), in certain states like Telangana online skill gaming for money or stakes is prohibited; whereas it might be legal to win monetary prizes in games of skill depending upon the concerned State legislation. However, given Ludo’s popularity among the masses as determined from the spike in downloads and engagements with Ludo in the post-lockdown period goes to establish the social element associated with Ludo.

- A Social game can thus be understood as a game which unifies the social strata of a community, it is a game which has been played by the members of that community and is well-known in that community. Ludo is one such game which has been played by the populace of India at least once in their lifetime, be it in their childhood or adulthood.
- While the idea and concept of social gaming may say that a social game played for money comes within the ambit of gambling, when perceived in the Indian context, a social game which may qualify as a game of skill, such as Ludo, would not however be qualified as gambling if the same is played for stakes. Thereby advocating for Ludo as a social game is a much more plausible approach which supplements the ability to enhance its acceptability accompanied by the legal classification of Ludo as a game of skill.



Does the present regulatory environment allow games of skill to be played with Real Money?

- Gambling or gaming in India was originally regulated by the Public Gambling Act, 1867 which is the central law on gambling. Presently, the power to legislate lies exclusively within the State Legislature as “betting and gambling” have been enumerated as Entry 34 in List II or State List and are State subjects. Pursuant to this power, most states in India have passed their respective enactments governing Gambling in their jurisdictions.
- It is imperative to be noted that, while the Central Gambling Act and all the State Gaming Acts provide for an exemption in the nature of Saving of Games of Skill and substantially state that "nothing in this Act shall apply to games of mere skill wherever played". However, there are several states in India (like Assam[1], Nagaland[2], Orissa[3], Sikkim[4], Telangana[5], Andhra Pradesh[6], and Tamil Nadu[7]) that do not allow neither game of skill nor game of chance in their respective jurisdictions to be played for real money.
- A “game of skill” is one where success depends principally upon superior knowledge, training, attention, experience, adroitness, personal attributes and capabilities of the player. It is a game in which, while the element of chance cannot be entirely ruled out, it is the element of skill on the part of the participants that plays a dominant role in determining the outcome of the game. Games of skill are identified as a separate category because various states in India have codified gambling acts that exclude games of skill from the ambit of gambling. The popular online games in India that have been recognized as games of skill include Horse Racing, Rummy and Fantasy Sports.
- The Hon’ble Courts in India have appreciated various online gaming concept that allows players to play such games with real money. Some of these platforms providing such experience are Dream 11, Silk Rummy, Skill Ludo, LudoPe

[1] The Assam Game and Betting Act, 1970.

[2] The Nagaland Online Gaming Act, 2016.

[3] Prevention of Gambling Act, 1954.

[4] Sikkim On-line Gaming (Regulation) Act, 2008.

[5] Andhra Pradesh Gaming Act 1974.

[6] Section 4 Telangana Gaming Act, 1974.

[7] Section 3A the Tamil Nadu Gaming Act, 1930

- Following are some of the gaming concepts explained in detail which allow the players to play such games with real money:-
 - **Dream 11**
 - Dream Sports is a sports technology company founded in 2008 by Harsh Jain and Bhavit Sheth with brands such as Dream11, FanCode, DreamX, DreamSetGo and DreamPay in its portfolio. Dream Sports is executing its vision of ‘Make Sports Better’ by providing multiple avenues for fans to deeply engage with the sports they love through fantasy sports, content, commerce, experiences and events, among others.
 - The High Court of Punjab & Haryana, in the case of **Varun Gumber v. U.T., Chandigarh**^[1], found that playing fantasy sports games involves the exercise of considerable skill, judgment and discretion because the participant has to assess the relative worth of each athlete based on their strengths and weaknesses at the time of drafting players. It is this assessment that finally determines the success or failure of fantasy sports games. Hence, the element of skill predominantly affects the outcome of matches.
 - Further Rajasthan High Court in the case of **Chandresh Sankhlay. The State Of Rajasthan**^[2], observed that Online fantasy sports games offered on the Dream 11 platforms were not considered as gambling/betting as the format of online fantasy game offered by Dream 11 was a game of mere skill and their business had protection under Article 19(1)(g) of the Constitution of India. A challenge filed against the said order was dismissed by the Supreme Court on September 15, 2017.
 - The game of dream 11 involves real money, players have to choose an upcoming match that you want to play and create your team and later Choose between different contests and win money. To enter into any contest players has to add money into their respective account and can also withdraw the amount won directly into their bank accounts.
 - Further, Dream 11’s terms and conditions^[3] explicitly denote that it is a game of skill and not a game of chance and therefore, it's completely legal to play such games.

[1] CWP No. 7559 of 2017

[2] 2020 SCC OnLine Raj 264

[3] Dream 11 Terms Available at: <https://www.dream11.com/about-us/legality#:~:text=Finally%2C%20the%20Court%20held%20that,of%20the%20Constitution%20of%20India.> (Last accessed on 5 May 2021)

o **Ace2Three Rummy**

- The game of Rummy is a game of skill as appreciated by the Supreme Court in the case of ***State of Bombay v. RMD Chamarbaugwala***[1], that the competitions where success depends on a substantial degree of skill are not "gambling" and despite there being an element of chance if a game is preponderantly a game of skill it would nevertheless be a game of "mere skill".
- In ***Andhra Pradesh v. K. Satyanarayana and Ors.***[2], the Hon'ble Supreme Court of India observed that Rummy requires a certain amount of skill because the fall of the cards has to be memorized and the building up of Rummy requires considerable skill in holding and discarding cards.
- Ace2Three is India's First Online Rummy Portal completely owned and Operated by Head Digital Works Private Limited. It is the first-ever website to launch the classical Indian Rummy. Ace2three is on a mission to promote Rummy as a professional game and create a community of skilled gamers.
- The game of Ace2Three Rummy involves real money. Players can add money through credit card, debit card, internet banking, Paytm, PayUmoney, Mobikwik, Citrus, OLA Money, Cash Cards & Bank Transfer later players can use this money and play different tournaments and they can also withdraw the amount into their bank account.
- The Terms and condition of Ace2Three Rummy clearly demonstrate that this is a game which involves predominantly skill over chance and therefore, it is legal to play the same[3]

o **SilkRummy**

- SilkRummy.com hosts skill-based Online Rummy Games on its Rummy Gaming platform. SilkRummy's Game engine is advanced Rummy Game Engines and has built-in Artificial intelligence enabling well-thought-out auto-play and Logout scenarios in the event of disconnections. The main motto of SilkRummy is to provide its users with an unmatched virtual and friendly gaming experience.
- This game of SilkRummy[4] involves real money in the game. Players can add money through credit card, debit card, internet banking, Paytm, PayUMoney, Mobikwik, Citrus, OLA Money, Cash Cards & Bank Transfer later players can use this money and play different tournaments and they can also withdraw the amount into their bank account. The minimum amount that a player can deposit or withdraw is Rs. 200/-.

[1] AIR 1957 SC 699

[2] AIR 1968 SC 825

[3] Ace2Three's Terms Available at: <https://www.a23.com/legality.html>

[4] Available at: <https://www.silkrummy.com/legalities>

o **LudoSkill**

- As mentioned above that Ludo is a game of skill and the judicial minds in India via several judgments have appreciated that games which involve skill are legal with or without the involvement of money. LudoSkill is one of such games which allow its user to play Ludo game with real money. LudoSkill is a real money Ludo game application that allows its users to play Ludo online with real players and earn Paytm money. It is the classic Ludo. LudoSkill is a multiplayer online Ludo game available for Android users.
- LudoSkill[1] involves real money in the game. Before starting of the game the player has to add coins, which have to be purchased. After adding coins players can enter into the tournament between 2 to 4 persons. On winning of the game Prize money will be credited to the players Ludoskill wallet that can be withdraw by them. Minimum amount to withdrawal is Rs 100 in Paytm wallet and Rs. 200 in bank account and there is no limit for maximum withdrawal. Players can withdraw money anytime they want. First 4 transactions are free in a month and after each withdrawal special transaction standards charges will apply.

o **Ludo Fantasy**

- Ludo fantasy is start-up based in India. Founded in Feb 2019,Ludo Fantasy is a dream game project of VIVSON Games Pvt. Ltd. A person can play this game with friends, family, and with online friends.
- Ludo Fantasy involves real money and it gives a chance to earn money in real-time & offers instant withdrawals. Player can add money into their Account and can Withdraw Cash at any time by going to My Account page and clicking on Withdraw Cash. Money can be withdrawn only if player's Ludo fantasy account is verified. Once players account is verified, start withdrawing. Minimum withdrawal amount is Rs 50. Website has specifically provided the entry amount and winning amount of each round.
- The prize distribution table and terms and conditions of the game can be asessed from the following link: <https://Ludofantasy.com/how-to-play.html>

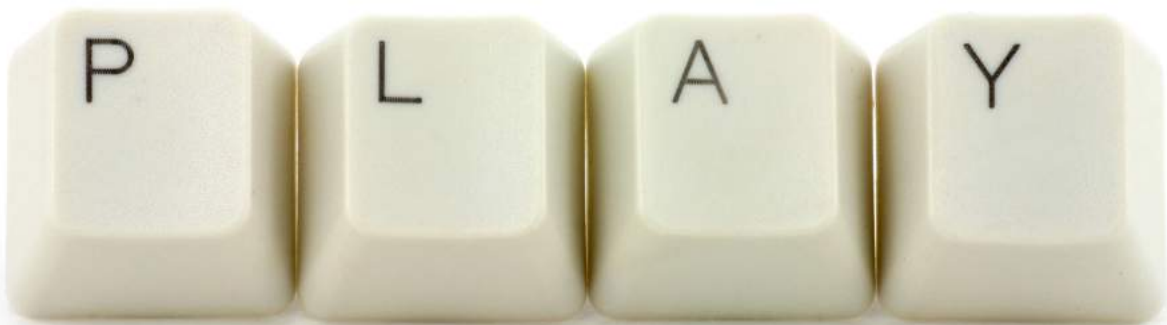
[1] Ludo Skill, Available at: https://Ludoskill.com/terms_condition.php, (Last accessed on 5 May 2021)

o **Ludo Empire**

- Ludo Empire is a project of Fabzen Technologies Private Limited. Ludo Empire is the online version of the most played board game - Ludo, with a great twist that you can play this game online for fun, and along with that, if you win, you will earn real cash.
- The game of Ludo Empire involves real money. Players can play game with the coins and such coins can be purchased by the players by Clicking on the wallet and enter the amount that players want to add, then select the payment option and players will receive the coins immediately. Players can withdraw the winning money by clicking on their player wallet and by clicking on the withdraw option; they can withdraw the amount immediately. Money can be withdrawal only if player's Ludo Empire account is verified. Once player's account is verified, they can start withdrawing. Minimum withdrawal amount is Rs 100.

Conclusion

Given that the game of Ludo is that of skill Since, Ludo is game of skill and as most games of skill mentioned above such as Dream 11, Rummy, etc. even when played with real money have been declared valid and legal, as a substantial degree of skill is involved in playing such games and therefore, they are not considered as “gambling or betting” and hence are exempt from gaming laws even when played for money, except in the states that say that any game played for money is banned/prohibited. Thereby, it is essential to ensure legal preparedness in terms of any adverse actions being taken by State authorities based on a misplaced assessment of Ludo not qualifying as a game of skill.





ABOUT AUTHOR



Dr. Manoj Kumar
Founder & Managing
Partner, H&S Partners

An alum of the prestigious Harvard Business School and National Law School of India, Manoj is a distinguished author, teacher, conflict resolution expert, strategist, columnist, thought leader, and is called upon by governments and top-of-the-line Indian and international institutions.

Notably, Manoj has been conferred the prestigious Mahatma Gandhi Samman at the House of Lords, London.

In addition to driving Hammurabi & Solomon Partners (ranked among the top 20 Indian law firms by Asian Legal Business), Manoj is also the:

- vice-president of the Society of Indian Law Firms,
- vice-chair of the Energy & Natural Resources Committee of the Inter-Pacific Bar Association,
- vice-president of the Society of Construction Law UK – India,
- visiting fellow with Asia's top ranking think tank – Observer Research Foundation,
- an expert with the UNESCO Inclusive Policy Lab, and
- visiting professor at the Indian Institute of Management (IIM), and independent director on corporate boards.

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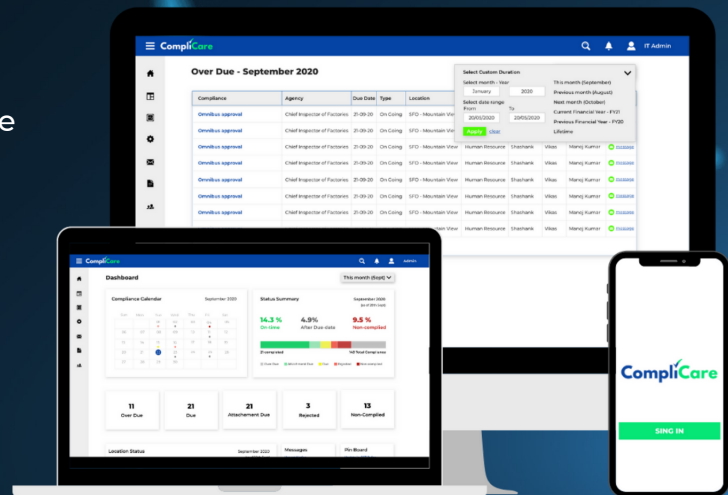
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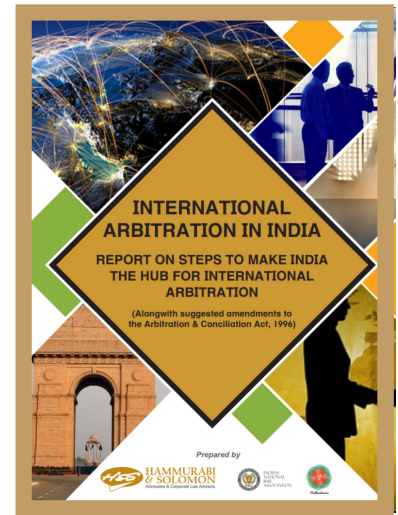
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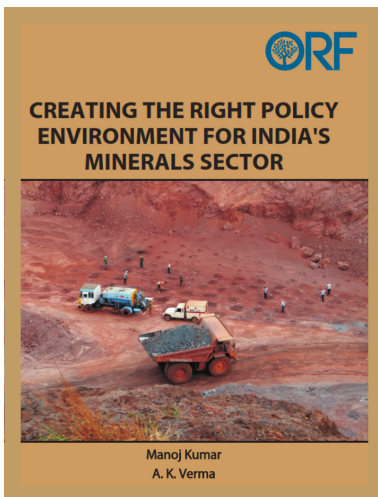
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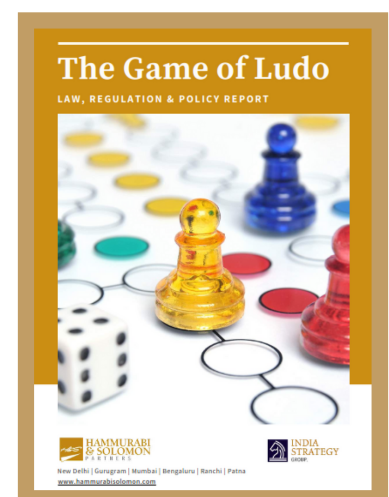
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