



**RGNUL Student
Research Review
(RSSR)**

Call for Papers

Volume 8, Issue 2

**Unboxing the Legal Potential of
the Sports & Gaming Industry**
Redesigning India's Way of Playing



Editorial Board
RGNUL Student Research Review

CALL FOR PAPERS

The RGNUL Student Research Review invites papers and submissions for Volume 8, Issue 2, from academicians, practitioners, legal luminaries and students on the theme titled:

**“Unboxing the Legal Potential of the Sports & Gaming Industry:
Redesigning India’s Way of Playing”**

The sports and gaming industry in India is highly competitive and is undergoing rapid developments to expand its global reach. Sports and gaming laws encompass a wide array of legal fields like criminal, administrative, constitutional, and regulatory laws. Due to the cultural phenomenon of traditional sports and the advent of the internet and technology, the sports and gaming industry has undergone an unprecedented transformation in the last few decades.¹ This, however, has been accompanied by a plethora of challenges. The absence of comprehensive laws and uniform regulations is the biggest lacuna which plagues the growth and development of this industry.

Recently, Mr. Aruneshwar Gupta, Senior Advocate of the Supreme Court, has emphasized the need for a national legal framework to promote growth and prosperity of the Indian sports industry, noting that the National Sports Development Code, 2011² is insufficient for managing the affairs and needs of an industry that is rapidly transforming.³ Likewise, Mr. Lokesh Suji, Vice President of the Asian Esports Federation, has called for the acceptance and recognition of the gaming sector in India, urging continued government support in the lead-up to the Asian Games, 2022.⁴

The current Indian laws on sports & gaming are inadequate and require major legal reforms. The gaming laws, in specific, date back to the colonial era. The Public Gambling Act, 1867⁵ is the only central legislation on the subject of gaming. The law focuses solely on prohibiting gambling and betting, drawing an exception for games of skill⁶, however, failing to elucidate the distinction between a game of skill and a game of chance. With the tremendous growth in

¹Adam Rivers, Baro Hyun & Balazs Sebestyen, *The Evolution of Gaming and esports Business*, (Apr 7, 2021), <https://home.kpmg/uk/en/blogs/home/posts/2021/04/the-evolution-of-gaming-and-esports-business.html>.

²National Sports Development Code of India, (2011), MINISTRY OF YOUTH AFFAIRS & SPORTS.

³*Senior Advocate Aruneshwar Gupta on Sports law, BCCI & more*, BAR AND BENCH, (Jun 7, 2021), <https://www.barandbench.com/apprentice-lawyer/senior-advocate-aruneshwar-gupta-on-sports-law-the-bcci-more>.

⁴Chetan Nayak, *E-Sports has potential to outrun Cricket in India, but govt. needs to do its part and clear*, THE INDIAN EXPRESS, (Feb 9, 2021), <https://indianexpress.com/article/technology/gaming/esports-has-potential-to-outrun-cricket-in-india-but-govt-needs-to-do-its-part-and-clear-7179881/>.

⁵The Public Gambling Act, Act No. 3 of 1867.

⁶§ 12, The Public Gambling Act.

online gaming and fantasy sports, monetary prizes have become an even more significant element of competitions, however, they are still governed by the Prize Competitions Act, which dates back to 1955⁷. This regulation falls short given the continuous development in this sector.

In case of sports laws, the National Sports Policy of 1984⁸ reformulated in 2001⁹ and the National Sports Development Code, 2011¹⁰ are the only existing regulations. The National Development Policy was formulated with the twin objective of broad basing of sports and achieving excellence in sports at national and international levels. However, with the advent of platforms like Dream11, wherein people create 'fantasy teams' and win cash prizes amounting to crores of rupees, concerns regarding the legality of such online gaming/sporting platforms need immediate attention. The National Sports Development Code of India, 2011, which is a collection of various Government orders passed for the sports sector, governs the functioning of national sports authorities like the National Sports Federations (NSF) and Sports Authority of India (SAI). However, it does not recognise the Esports Federation of India (ESFI) even though Esports was included as a demonstration event at the 2018 Asian Games.¹¹

The lack of uniformity within Indian states with regard to either, the industrialisation of sports sector by Mizoram¹² or Karnataka's ban on online gaming formats¹³, bring to light the dire need for a uniform regulatory framework. Lastly but importantly, the present dispute redressal mechanism in India for sports & gaming is inadequate. India can, however, take inspiration from the Court of Arbitration for Sports at Switzerland, which is the only effective redressal mechanism for sports, and set up a similar mechanism in place.

In 2018, the Sports (Online Gaming and Prevention of Fraud) Bill, 2018¹⁴ was introduced in the Parliament, in order to establish a regulatory framework for the online gaming industry and addressing the menace of sports frauds. However, the Bill was not passed and has not been re-tabled in the Parliament, so far. Further, in 2018 the Law Commission of India came up with a

⁷The Prize Competitions Act, Act No. 42 of 1955.

⁸National Sports Policy, (1984), MINISTRY OF YOUTH AFFAIRS & SPORTS (National Policies of the Parliament).

⁹National Sports Policy, (2001), MINISTRY OF YOUTH AFFAIRS & SPORTS (National Policies of the Parliament).

¹⁰ National Sports Development Code of India, (2011), MINISTRY OF YOUTH AFFAIRS & SPORTS.

¹¹Vishakh Ranjit & Anirudh Rastogi, Complying with the National Sports Development Code of India, 2011, MONDAQ, (Jun 30, 2020), <https://www.mondaq.com/india/sport/959720/complying-with-the-national-sports-development-code-of-india-2011>.

¹²Special Correspondent, *To generate employment, Mizoram gives sports industry status*, THE HINDU (May 23, 2020), <https://www.thehindu.com/news/national/other-states/to-generate-employment-mizoram-gives-sports-industry-status/article31658026.ece>.

¹³ET Bureau, *Karnataka notifies law banning online betting games*, THE ECONOMIC TIMES (Oct. 5, 2021), <https://economictimes.indiatimes.com/tech/technology/karnataka-notifies-law-banning-online-betting-games/articleshow/86790685.cms?from=mdr>.

¹⁴The Sports (Online Gaming & Prevention of Fraud) Bill, 2018, Bill No. 259 of 2018.

report titled “Legal framework: Gambling & Sports Betting Including in Cricket in India”¹⁵ which highlighted the need to regulate the gambling industry while also allowing the industry to grow, followed by the draft discussion paper released by the NITI Aayog, in 2020, titled “Guiding Principles for the Uniform National level Regulation of Online Fantasy Sports Platforms in India”, as an effort to formalise certain guidelines for the fantasy sports industry in India.¹⁶ However, these legislative efforts have remained unsuccessful in bringing any legal reforms for the sports and gaming sector.

In contrast to the Indian position, countries and regions like the European Union¹⁷, the People's Republic of China¹⁸ and South Korea¹⁹ have begun formalizing national legal frameworks for their sports and gaming sectors, aiming to increase accountability and enabling governmental support for growth and development. With India listing in the top 5 mobile gaming markets in the world²⁰ and the Indian online gaming industry’s potential of reaching \$2 billion by 2023²¹, it only seems imperative to have legal reforms that support these developments.

Shifting the focus to the persistent prevalence of malpractices in the sports & gaming industry, a plethora of incidents that occurred have unveiled the dark side of the sports industry. From the existence of gender discriminatory practices like hyperandrogenism policies against female athletes like Caster Semenya and Dutee Chand²², to Russia's ban from the Tokyo Olympics²³ due to doping concerns, proactive regulations are the need of the hour. In light of recent cases of match fixing and betting sites, as well as the involvement of notable cricketers like

¹⁵Legal Framework: Gambling & Sports Betting including cricket in India, 2018, Report No. 276, LAW COMMISSION OF INDIA, <https://lawcommissionofindia.nic.in/reports/Report276.pdf>.

¹⁶ Guiding Principles for the National -level Regulation of Online Fantasy Sports Platforms in India, 2020, NITI Aayog, Draft for Discussion, https://www.niti.gov.in/sites/default/files/2020-12/FantasySports_DraftForComments.pdf.

¹⁷Mittag, J. & Naul, R., *EU Sports Policy: Assessment and Possible Ways Ahead*, EUROPEAN PARLIAMENT, Research for CULT Committee, Policy Department for Structural & Cohesion Policies, Brussels, [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/652251/IPOL_STU\(2021\)652251_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/652251/IPOL_STU(2021)652251_EN.pdf).

¹⁸Soofia Brooke, What to make of the New Regulation in China’s Gaming Industry, CHINA BRIEFING (Oct 5, 2021), <https://www.china-briefing.com/news/what-to-make-of-the-new-regulations-in-china-online-gaming-industry/>.

¹⁹Olswang on eSports: Lessons from South Korea, CMS Law-Now, <https://www.cms-lawnow.com/ealerts/2016/03/olswang-on-esports-lessons-from-south-korea>.

²⁰Gaurav Laghate, *India among top 5 markets for mobile gaming*, THE ECONOMIC TIMES, (Aug 14, 2018), <https://economictimes.indiatimes.com/tech/software/india-among-top-5-markets-for-mobile-gaming/articleshow/65396386.cms>.

²¹ *India’s online gaming industry has the potential to generate \$2 billion by 2023 : EY- All India Federation Report*, BUSINESS INSIDER, (Aug 12, 2021), <https://www.businessinsider.in/advertising/ad-tech/article/indias-online-gaming-industry-has-the-potential-to-generate-2-billion-by-2023-ey-all-india-gaming-federation-report/articleshow/85265749.cms>.

²² Daryl Adair, Peter Sonksen, *Testosterone, Sex and Gender Differentiation in Sport- Where Science and Sports law meet*, LAW IN SPORT (Oct 14, 2014), <https://www.lawinsport.com/topics/item/testosterone-sex-and-gender-differentiation-in-sport-where-science-and-sports-law-meet>.

²³World Anti-doping Agency v. Russian Anti-doping Industry, CAS 2020/O/6689.

Mohammed Naveed and Shaiman Butt²⁴, there exists a significant need for redressal mechanisms to tackle high-profile corruption cases.

Additionally, the concerns originating with the rapid commercialisation and digitalisation of sports, such as the shift from traditional mode to events such as F1 Esports – Virtual Grand Prix Series²⁵ and the Olympic Virtual Series²⁶, the dispute surrounding the legality of fantasy sports, highlight the need for a legislation in this domain. The interplay between sports and competition law is on a rise. The European Super League’s demand for closed leagues²⁷, the landmark cases against the BCCI²⁸ and All India Chess Federation (AICF)²⁹ emphasise upon the necessity for regularisation of sports and encompassing it under the ambit of the Competition Act³⁰. Several other emerging problems include the IPR issues that are evidenced by the rapid legalisation of NFTs³¹, Lionel Messi’s Trademark dispute³² and enactment of Italy’s decree addressing ambush marketing.³³

In view of the unexplored potential of the Indian sports & gaming industry, the novel challenges and concerns and the lack of a sound legal mechanism, RSRR seeks to delve into the theme, **“Unboxing the Legal Potential of the Sports & Gaming Industry: Redesigning India’s Way of Playing”** to review and analyse the present policy framework in light of the everyday developments. The primary objective behind this theme is to provide a platform for legal analysis, insightful commentary, and in-depth analysis that can bridge the gap between relevant legal developments in the sports and gaming sectors, and ultimately enhance the discourse surrounding such stigmatized topics.

²⁴International Criminal Court v. Mr. Mohammed Naveed (2021).

²⁵*Virtual Grand Prix Series returns for 2021*, F1 ESPORTS SERIES (Jan 14, 2021), <https://f1esports.com/news/virtual-grand-prix-series-returns-for-2021/>.

²⁶*IOC makes landmark move into the virtual sports by announcing first ever Olympic Virtual Series*, International Olympic Committee (Apr 22, 2021), <https://olympics.com/ioc/news/international-olympic-committee-makes-landmark-move-into-virtual-sports-by-announcing-first-ever-olympic-virtual-series>.

²⁷*European Super League offends principles of Competition- Boris Johnson*, BBC NEWS (Apr 21, 2021), <https://www.bbc.com/news/uk-56822592>.

²⁸ Pan India Infraprojects Pvt. Ltd. v. Board of Control of India, Case No. 91 of 2013 (CCI).

²⁹ Saba, CCI issues orders against All India Chess Federation for abuse of dominant position and anti-trust competitive conduct, SCC Online, (Jul 13, 2018), <https://www.sconline.com/blog/post/2018/07/13/cci-issues-order-against-all-india-chess-federation-for-abuse-of-dominant-position-and-anti-competitive-conduct/>.

³⁰ The Competition Act, 2002, Act No. 12 of 2003.

³¹Marvellous Iheukwumere, *Legal Implications of NFTs in Sports*, HARVARD JOURNAL OF SPORTS AND ENTERTAINMENT LAW (Apr 19, 2021), <https://harvardjssel.com/2021/04/legal-implications-of-nfts-in-sports/>.

³²European Union Intellectual Property Office v. Lionel Andres Messi Cuccittini, C-449/18.

³³Lorenzo Battarino & Maria Antonia Zerbi de Blasio di Palizzi, *New rules against ambush marketing in Italy: a welcome improvement or a missed chance?*, ITALY INTELLECTUAL PROPERTY BLOG (22 June 2020), <https://www.ipitalia.com/pratiche-commerciali-scorrette/new-rules-against-ambush-marketing-in-italy-a-welcome-improvement-or-a-missed-chance/>.

SUB -THEMES

- I. Archaic Laws & Unaddressed Concerns: The Need for Comprehensive Legal Reforms
 - i. Need for a Standardized Regulatory Framework
 - ii. Analysis of Previous Legislative Initiative
- II. The Dark Underbelly of the Sports & Gaming Industry
 - i. Prevalence of Corruption
 - ii. Human Rights Violations and Exploitation
 - iii. Substance Abuse in the Sports & Esports Industry
- III. The Impact of Modernization on the Sports & Gaming Industry
 - i. Addressing Contemporary Concerns in the Esports Industry
 - ii. Revamping Broadcasting & Advertising Regulations
 - iii. Implications of Intellectual Property Rights
 - iv. Role of Artificial Intelligence
- IV. The Commercialization & Industrialization of the Sports Industry
 - i. Intersection between Competition Law & Sports Law
 - ii. Industrialization of the Sports Sector: An Ambitious Exploration?
- V. Labour & Employment Law Concerns in the Sports Industry
 - i. Analysing the Legalities of Collaboration & Sponsorship Deals
 - ii. Addressing Unionization, Fair Pay & Workplace Concerns
- VI. The Socio-Legal Aspects of Online Gaming with a Special Emphasis on Children and Young-Adults
 - i. Physical & Mental Health Concerns
 - ii. Legal Implications of Microtransactions & Loot Boxes: An Unchecked Threat?
 - iii. Advertising Guidelines: The Necessity for Stringent Implementation

VII. The Grey Market of the Fantasy Sports Industry in India

VIII. The Comparative Analysis of International Sports & Gaming Law

Note: The above-mentioned sub-themes and sub-points are only illustrative and not exhaustive, and the authors are free to write upon any other sub-theme, provided they fall within the broad ambit of this journal's theme.

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- iii. The manuscript should not contain the name(s) of the author(s), their institutional affiliations, or any other identification markers. The title of the manuscript should indicate the sub-theme that the author(s) have chosen.
- iv. Upon submission, every manuscript will undergo an internal review by the Board of Editors. If approved, it is subject to a double-blind peer review process.
- v. Authors must note that grammatical and legal accuracy, contribution to literature (originality of content), etc. will be some of the major criteria on which the submissions will be analysed. The responsibility for the accuracy of the facts, opinions, or viewpoints stated in the submitted paper shall rest solely with the author(s).

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Articles: A comprehensive and thorough analysis of issues related to the theme of the Journal.

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- iii. **Case Comments** (2,000 to 4,000 words)

Case Comments: An academic writing that analyses or is a critique of a recent case.

- iv. **Legislative Comments** (2,500 to 4,000 words)

Legislative Comments: A comment that analyses the objective of the legislation and analyses the legal impact of the same.

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Normative Law Articles: These will explore the opinion of students relating to the specific legislations involved in the theme of the Journal. They seek to bring out a student's view on how a particular legislation or legislative provision should have been drafted to bring out clarity into the law. The authors are welcome to draft amendments (or even a law in entirety) to the existing laws should they believe that the particular legislation requires some amendments. Arguments must be logical and can take into account aspects such as sociological, political, and economic implications of the law.

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- vii. All submissions must be accompanied with a cover letter in a separate document stating the details of the author(s).
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