



E-SPORTS: A PLATFORM FOR GENDER EQUALITY IN SPORTS – A SOCIO-LEGAL ANALYSIS

*Dr. Vasudha Bali**

ABSTRACT

Recently, India passed the first legislation to regulate online gaming and promote e-sports. The Promotion and Regulation of Online Gaming Act, 2025, aims at promoting online gaming, including e-sports. With the rapid advancement of technology and the impact of pandemics, “Electronic Sports” (hereinafter “e-sports”) have emerged as a significant component of the gaming and sports industry. E-sports was a full-out medal event in the Asian Games 2022, conducted in Hangzhou, China. “E-Sports presuppose playing video games in a competitive setting, emphasizing increased ‘institutionalization’ of gaming activity through the organization of e-sports teams and official international competitions.” It is a complex convergence of culture, technology, business, and sports. In India, e-sports is a fast-developing industry. It witnessed a whopping investment of \$544 million from August 2020 to January 2021. India also has the E-Sports Federation. The Ministry of Sports & NITI Aayog has also taken some steps toward its regulation. The judiciary and legislature have clearly stated that such gaming activities do not fall within gambling and are a “game of skill,” which is legal. As a virtual platform, e-sports transcends the biological distinctions emphasized in traditional sports. They offer women e-athletes a space that ensures privacy and autonomy. Yet, similar to conventional competitive sports, e-sports remain predominantly male-dominated. Due to the non-regularization of e-sports, females and non-binary players face overt barriers like gender violence, sexual harassment, pornography, etc., as well as subtle barriers like negative comments and men shaming when losing to a girl, etc., in e-sports. The Promotion and Regulation of Online Gaming Act, 2025, though an appreciable step towards streamlining the sector, overlooks critical challenges such as online harassment and specific concerns of women players. The paper examines the concept of e-sports and its socio-legal implications, with particular emphasis on women’s participation in e-sports.

I. Introduction

Recently, India passed the first legislation to regulate online gaming and promote e-sports. The Promotion and Regulation of Online Gaming Act, 2025, aims at promoting online gaming, including e-sports. With the rapid advancement of technology and the impact of pandemics, “Electronic Sports” (hereinafter “e-sports”) have emerged as a significant component of the gaming and sports industry. E-Sports are the modern, grander, and more technical version of video games that have been played in households since the ’80s.

* Assistant Professor, Vivekananda Institute of Professional Studies

According to the E-Sports Federation of India, “Esports (Electronic sports) is a competitive sport where gamers use their physical and mental abilities to compete in certain genres of video games in a virtual, electronic environment.”¹ These games are played for titles and rewards in the form of prizes and trophies. Players of these games are formally referred to as “E-Athletes”.² Games like fantasy sports, Poker, rummy, and teen patti, etc., are not included in e-sports. E-sports have become an important part of the economy. Most countries, including India, are taking steps to provide a boost to E-Sports and other online gaming as well. It is also gradually becoming part of traditional sports events, although a debate about whether it is a “sport” or not is still ongoing.

Though largely male-dominated, e-sports has witnessed a significant increase in female participation, with many achieving global recognition. The ability to play from home offers privacy, accessibility, and anonymity, creating opportunities for women who face social barriers in traditional sports. Unlike physical sports, where biological differences in speed and strength necessitate segregation, e-sports have the potential to serve as a genuine model of gender-integrated competition. However, realizing this potential requires addressing both overt barriers such as sexual harassment and exposure to pornography, as well as subtle challenges like gender-based ridicule, for instance, men shaming opponents when defeated by women.

The article aims to analyze the impact of women’s participation in e-sports. To achieve this, it examines broad issues such as the concept of e-sports and their socio-legal implications, with a particular focus on women in the field. The paper is divided into five parts. Apart from the Introduction in Part I and the Conclusion in Part V, Part II explores the meaning of e-sports, its difference from traditional sports, and its influence on the global economy. Part III, titled “E-Sports in India,” discusses their contribution to the Indian economy and elaborates on the existing legal framework. Part IV “Women in E-Sports” highlights female participation, the opportunities and challenges they face, and examines the legal framework against sexual harassment in sports, which is a major barrier to women’s growth in e-sports.

¹ What is E-sports, available at: file:///E:/E%20sports/India%20&%20E-sports/Introduction%20ESFI%20_%20Esports%20Federation%20of%20India.html (Last visited on 1st Feb., 2025).

² *Ibid.*

I. E-Sports

Meaning

Electronic sports, popularly known as e-Sports, are professional competitive video games played by skilled gamers.³ “It is formally defined as an area of sports activities in which people develop and train mental or physical abilities in the use of information and communication technologies.”⁴ It can be a multiplayer game played as a team, called “team-oriented multiplayer online battle arenas (MOBAs)”⁵ or individual single-player games, as in “single-player first-person shooters, to survival battle royales⁶, and like other sports, it is played live with an audience and bystanders.⁷ It is defined as “the competitive play of video games in public settings (e.g., in online settings or streaming gameplay for spectators).”⁸ It is also defined as, “a form of sports where the primary aspects of the sport are facilitated by electronic systems; the input of players and teams as well as the output of the eSports system are mediated by human-computer interfaces.”⁹ It is said to include several elements of traditional professional sports like “...fans, playoffs, uniforms, training, comebacks, upsets... exists both at the amateur and professional level.”¹⁰ Like other games, it has some important broadcasting channels such as ESPN, Turner Broadcasting System, YouTube, Twitch, etc.

The first e-sport event was organized at Stanford University in 1971, where “The Spacewar” game was played between various students for the prize of a one-year subscription to the highly sought-after “Rolling Stone Magazine”.¹¹ Its perspective as a competitive sports event was seen in 1980, when the “Space Invaders” Championship was organized, where some 10,000

³ Difference Between Esports and Gaming, available at: file:///E:/E%20sports/Difference%20Between%20Esports%20and%20Gaming%20_%20Difference%20Between.html (Last visited on 19th Jan., 2025)

⁴ Marko Marelić & Dino Vukušić, E-Sports: Definition and social implications 11(2) *EQOL Journal* 50 (2019)

⁵ Aayush Sharma, Are E-Sports sports? An Empirical Analysis vis-à-vis Developments so far 2(1) *Global Sports Policy Review* 110 (2021).

⁶ *Ibid.*

⁷ *Supra* note 3.

⁸ Omar Ruvalcaba, Jeffrey Shulze, Angela Kim, Sara R. Berzenski, and Mark P. Otten, Women’s Experiences in eSports: Gendered Differences in Peer and Spectator Feedback During Competitive Video Game Play 00(0) *Journal of Sport and Social Issues* 2 (2018).

⁹ *Supra* note 5.

¹⁰ *Supra* note 8.

¹¹ *Supra* note 5 at 111.

players participated.¹² One of the key reasons for the rise of e-sports is the broadening of broadcasting platforms. Now, the internet is one of the leading broadcasting media.¹³

E-Sports v. Other Online Games

To understand e-sports better, it is important to recognise that while e-sports involve playing online video games, not all online games qualify as e-sports. Unlike e-sports, most online games do not feature human-to-human competition. In many games, a single player focuses on completing personal tasks or advancing through levels, and in some, competes against bots or artificial intelligence. These games typically lack elements central to e-sports, such as live competition, team play, broadcasting, trophies, or an audience.

E-sports also differ from ‘fantasy sports’. Fantasy sports involve the selection or compilation of real-life sportspersons by the “Manager,” i.e., Player.¹⁴ It is a virtual team of real-life sportspersons, where points are gained based on the real performance of the selected players.¹⁵ Therefore, a player's winning or losing depends on external factors. There are “Fantasy E-Sports” as well, where e-athletes/avatars of real-life players are selected to create a virtual team.¹⁶

E-Sports v. Traditional Sports

There is an ongoing debate in the world of sports about whether “e-sports” is a sport. Most believe that e-sports have most elements of sports, besides some differences in physical activity. E-Sports, like traditional sports, are competitions between humans, have rules and regulations, viewers/audience, sponsors, prizes, and broadcasting. Most sports jargon, like a match, team, player, skill, practice, offence, defense, tactic, etc., is used in e-sports as well. To analyze further, we need to define ‘sport’, and like ‘e-sport’, it has no one definition.

According to the common Oxford Dictionary definition, sport is an activity that you do for pleasure and that needs physical effort or skill, usually done in a special area and according to

¹² *Ibid.*

¹³ *Supra* note 4.

¹⁴ Fantasy Sports vs Esports- All You Need to Know, available at: file:///E:/E%20sports/Fantasy%20Sports%20vs%20Esports%20-%20What%20are%20the%20Differences_.html (Last visited on 12th Jan., 2025).

¹⁵ What is Fantasy Sports?, available at: <https://fanarena.com/fantasy-sports/> (Last visited on 13th Jan., 2025).

¹⁶ *Supra* note 14.

fixed rules.”¹⁷ In some studies, the physical activity of e-athletes was determined based on “metabolic equivalent” and “cortisol levels”, and it was found that levels were the same in traditional and e-sports players.¹⁸ Based on this, it was concluded that though e-sports may not have the same kind of physical activity as required in traditional sports, it is not “sedentary” as often described.¹⁹ Although health & mental benefits associated with sports are missing in e-sports, gaming companies are taking initiatives to improve the well-being of their e-athletes.²⁰

Types of E-Sports

Most esports are categorized as MOBA, FPS, and RTS. “Multiplayer Online Battle Arena” (MOBA) like DOTA 2, League of Legends, etc., which have the highest prize money and audience.²¹ “The game is played in teams of 5 players each, having their roles and purpose is to defeat opponents' protected structure and at the same time defend their own”.²² “First Person Shooter” (FPS) like Counter-Strike: Global Offensive is a military-style combat game played in teams consisting of 5 members.²³ “Real Time Strategy” (RTS) like Starcraft 2 is played mostly as one-on-one. “In this genre, each player has parallel control of multiple units (covering offensive units, production units, scouting units, etc.) and through tactics and skill defeats the opponent’s forces.”²⁴

E-Sports' impact on the world economy

E-Sports is one of the largest economically valued industries. “In 2022, the global e-sports market was valued at just over 1.38 billion U.S. dollars. Additionally, the e-sports industry's global market revenue was forecast to grow to as much as 1.87 billion U.S. dollars in 2025. Asia and North America currently represent the largest e-Sports markets in terms of revenue, with China alone accounting for almost one-fifth of the market.”²⁵ China alone generated approximately

¹⁷ Definition of Sport, Oxford Learner's Dictionary, available at: https://www.oxfordlearnersdictionaries.com/definition/english/sport_1 (Last visited on 6th Feb., 2025).

¹⁸ *Supra* note 4 at 51.

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ eSports market revenue worldwide from 2020 to 2025, available at: <https://www.statista.com/statistics/490522/global-esports-market-revenue/> (Last visited on 12th Jan., 2025).

“360.1 million U.S. dollars within the industry”.²⁶ In terms of prize money, the e-sports industry has some of the highest pools of prize money. “The e-sports game with the greatest tournament prize pool in 2022 was Dota 2, exhibiting a cumulative prize pool valued at 32.85 million U.S. dollars. This cumulative prize pool was only slightly higher than the runner-up, Arena of Valor, which had a cumulative prize pool of 32.73 million U.S. dollars during this period.”²⁷

In terms of the highest earning countries, the players of China brought home “almost 37.96 million U.S. dollars” through prize money in 2021, followed by the USA with 23 million U.S. Dollars.²⁸ One of the largest elements of sports is an audience that brings more money, sponsors, and broadcasting earnings to the game. In 2022, e-sports had 261.2 million e-sports enthusiasts and an additional 270.9 million occasional viewers of e-sports.²⁹ Such is the wide viewership of e-sports, which is further going to increase in the coming years.

II. E-SPORTS IN INDIA

In 2022, the Government of India brought an amendment to the Government of India (Allocation of Business) Rules, 1961, and officially allocated “E-Sports as a part of Multi-sports event” to the Ministry of Youth Affairs and Sports.³⁰ With the same amendment, “matters related to online gaming” were allocated to the Ministry of Electronics and Information Technology.³¹ On August 22nd, 2025, the Promotion and Regulation of Online Gaming Act, 2025 came into force (hereinafter referred to as “PROG Act”). The PROG Act aims “at promoting and regulating the online gaming sector, including esports, and to protect individuals, especially youth and vulnerable populations, from the adverse social, economic, psychological and privacy-related impacts of such games” among other aims.³²

²⁶ Esports Market revenue worldwide in 2021, by region, available at: file:///E:/E%20sports/Global%20eSports%20market%20revenue%20by%20region%202021%20_%20Statista.html (Last visited on 12th Jan., 2025).

²⁷ Christina Gough, Leading e-sport games worldwide 2022, by tournament prize pool, available at: <https://www.statista.com/statistics/501853/leading-esports-games-worldwide-total-prize-pool/> (Last visited on 12th Jan., 2025).

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ The Government of India (Allocation of Business) (Three Hundred and Seventieth Amendment) Rules, 2022.

³¹ *Ibid.*

³² Preamble to the Promotion and Regulation of Online Gaming Act, 2025.

E-Sport Economy of India

E-Sports and online gaming are not played just for pleasure these days. It is rapidly becoming part of international inter-country sports events. Tirth Mehta brought the first medal for India in esports by winning a bronze medal in the Asian Games of 2018.³³ In the 2022 Asian Games, esports is going to be a medal event, and India is sending its 18-member contingent for the event.³⁴ At the first-ever inter-country, Commonwealth E-sports Championship, India's DOTA 2 team won a bronze medal by defeating New Zealand.³⁵ Such performance at the international level will bring more revenue to India in the form of brands, gaming industry setups & broadcasting, etc. In 2021, the Indian e-sports industry had revenue of around 2.5 billion Indian rupees, which is estimated to grow to 11 billion Indian rupees in 2025.³⁶ The viewership of e-sports is constantly on the increase, with 17 million viewers in 2021, which is further estimated to increase to 85 million people by 2025.³⁷

Besides the gaming industry, Indian e-sports players have also become important contributors to the Indian economy. According to the E-Sports earnings, "... 1,052 Indian e-sports players have been awarded a total of USD 4,184,954.41 in prize money across 656 tournaments. The highest award-winning game was "PlayerUnknown's Battlegrounds Mobile" with USD 2,175,802.74, making up 51.99% of all earnings by Indian players. Nihal Sarin is the highest earning Indian player with USD 142,437.94 in prize money won overall, with USD 140,862.94 or 98.89% won from playing in Chess.com tournaments."³⁸ Harika Dronavalli is the highest-earning female e-sports player with \$23,504.13.³⁹

³³ Indian DOTA 2 Team wins bronze medal at Commonwealth Esports Championship 2022, available at: <https://www.timesnownews.com/technology-science/indian-dota-2-team-wins-bronze-medal-at-commonwealth-esports-championship-2022-article-93409516> (Last visited on 12th Jan., 2025).

³⁴ Asian Games 2022: India's 18-member esports team identified, available at: <https://olympics.com/en/news/asian-games-2022-indian-esports-team-athletes-qualified-full-list> (Last visited on 11th Jan., 2025).

³⁵ Tasmayee Laha Roy, How India's first Commonwealth Games Medal in esports will affect brands' interest, available at: <https://www.cnbc18.com/storyboard18/how-indias-first-commonwealth-games-medal-in-esports-will-affect-brands-interest-14456822.htm> (Last visited on 12th Jan., 2025).

³⁶ Tanushree Basuroy, eSports revenue in India FY 2021-2025, by category, available at: file:///E:/E%20sports/India%20&%20Esports/India_%20eSports%20revenue%20by%20category%202025%20_%20Statista.html (Last visited on 12th Jan., 2025)

³⁷ *Ibid.*

³⁸ Esports Earnings, available at: <https://www.esportsearnings.com/countries/in> (Last visited on 12th Jan., 2025).

³⁹ *Ibid.*

According to Statista, “Vivek Aabhas Horo, also known as 'Clutchgod' within the online gaming community, was one of India's most prominent e-sports athletes in terms of overall earnings that grossed over 52 thousand U.S. dollars by 2021. Owais was the second-best-earning eSports player in India that year, with total winnings amounting to nearly 51 thousand U.S. dollars.”⁴⁰ In 2021, India had about 390 million online gamers, which was an 8% increase from last year and is estimated to increase to 450 million by 2023.⁴¹ Around 150 million Indian E-Athletes were recorded in 2021, which is estimated to increase to 1.5 million by 2025.

Legal Status of E-Sports

Before the PROG Act, India had no legal framework to regulate e-sports. Section 2 (c) of PROG Act defines “e-sports” as “an online game which (i) is played as part of multi-sports events; (ii) involves organised competitive events between individuals or teams, conducted in multiplayer formats governed by predefined rules; (iii) is duly recognised under the National Sports Governance Act, 2025, and registered with the Authority or agency under section 3; (iv) has outcome determined solely by factors such as physical dexterity, mental agility, strategic thinking or other similar skills of users as players; (v) may include payment of registration or participation fees solely for the purpose of entering the competition or covering administrative costs and may include performance-based prize money by the player; and (vi) shall not involve the placing of bets, wagers or any other stakes by any person, whether or not such person is a participant, including any winning out of such bets, wagers or any other stakes”. After the PROG Act, it is expected that MOYS will also give recognition to the Esports Federation of India as a National Sports Organisation, for representing India at the international level.

E-Sports: Skill or chance?

The question of the legality of online games like fantasy sports has arisen in several cases. The issue in all these cases was whether online gaming or fantasy sports were games of skill or chance. High Courts in various decisions, like *Varun Gumber v. UT of Chandigarh*⁴², *Gurdeep*

⁴⁰ *Supra* note 36.

⁴¹ Number of online gamers in India 2017-2021, available at: <https://www.statista.com/statistics/1064010/number-of-online-gamers-india/> (Last visited on 11th Jan., 2025).

⁴² 2017 SCC OnLine P&H 5372.

*Singh Sachar v. Union of India*⁴³, *Chandresh Sankhla v. State of Rajasthan & Ors.*⁴⁴ and *Ravindra Singh Chaudhary v. Union of India*⁴⁵ has held that “organized internet gaming events and fantasy games are 'games of skill' and 'games of chance' like gambling.

So far, no such issue has arisen concerning e-sports. But it is important to understand what “games of skill” are. The Apex Court in *State of Bombay v. R.M.D. Chamarbaugwala*⁴⁶ observed that “a competition success wherein does not depend to a substantial degree upon the exercise of skill is now recognized to be of a gambling nature.” Therefore, the competition that has a “substantial” element of skill will not fall under gambling, even though it may have a slight chance. In *State of Andhra Pradesh v. K. Satyanarayan & Ors.*,⁴⁷ the Apex Court first time dealt with the question of what constitutes a “game of skill”. The issue revolved around the game of “Rummy” and whether it is a “game of skill or chance”. The Court held that the game of rummy, without any element of profit or gain, in itself is a game of skill even though it has some element of chance.

In *Dr. K.R. Lakshmanan v. State of Tamil Nadu*⁴⁸, while deciding the issue of horse riding, the Apex Court explained the difference between “a game of skill” and “a game of chance”. The Court observed, “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, and 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 are thrown, the wheel stops its revolution or the dealer has dealt with the cards.” While explaining the “game of skill” the Court explained, “A game of skill, 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.... 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. On

⁴³ Judgment dated 30th April 2019 in Criminal P.I.L. No. 16 of 2019.

⁴⁴ 2020 SCC OnLine Raj 264.

⁴⁵ 2020 SCC OnLine Raj 2688.

⁴⁶ 1957 SCR 874.

⁴⁷ AIR 1968 SC 825.

⁴⁸ (1996) 2 SCC 226.

analyzing the e-sports in light of the above explanation, it will unmistakably fall under “game of skill” and not a chance.

Legislative Framework

The PROG Act is a new legislation enacted to regulate the gaming industry, including e-sports. It impacts the online gaming ecosystem that comprises e-sports, casual games, educational games, and online money games, which were operating without any legal framework. The PROG Act aims to address the online money games that have significant social and financial harm. Section 3 of the Act provides for recognition and registration of e-sports agencies, establishment of training academies, and other necessary measures to promote the e-sports sector.

The Public Gambling Act, 1867 (hereinafter referred to as “1867 Act”) is widely used to control gambling in sports. However, Sec 12 of the 1867 Act clearly states that it does not apply to games of “mere skill”.⁴⁹ As discussed above, e-sports are “games of skill” and not chance; therefore, the 1867 Act will not have an application to the act of playing e-sports. But any gambling done on the outcome of esports will come under the 1867 Act.

“Sports” is a “State” subject under Entry 33 of List II of Schedule VII of the Constitution of India, 1950. Consequently, some state legislation on online gaming is worth noting. The Sikkim Online Gaming (Regulation) Act, 2008, aims to regulate electronic and non-electronic gaming. The Act defines “online gaming” as “any gaming, where any player enters or may enter the game or takes or may take any step in the game or acquires or may acquire or may acquire a chance in any lottery, by means of a telecommunication device, including the negotiating or receiving of any bet by means of a telecommunication device.”⁵⁰ “Sports Gaming” is defined as “games involving the prediction of the results of sporting events and placing a bet on the outcome, in part or in whole, of such sporting event.”⁵¹

Similarly, the State of Nagaland has enacted the “Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015” (hereinafter “Nagaland Act”). The Act aims to “prohibit gambling and promote online game skills”. The Nagaland Act defines “a

⁴⁹ “Sec. 12. Act not to apply to certain games.—Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.”

⁵⁰ Sec. 2(k) of the Sikkim Online Gaming (Regulation) Act, 2008.

⁵¹ Sec. 2(p) of the Sikkim Online Gaming (Regulation) Act, 2008.

game of skill” in line with the Apex court interpretation as “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 analyses or where the skill relates to the manner in which the moves are made, whether through deployment of physical or mental skill and acumen.”⁵² The Sec. further explains that “Games of Skill” may be “where the skill relates to the manner in which the moves are made, whether through deployment of physical or mental skill and acumen.”⁵³ Sec. 2(10) defines virtual as “games played online by means of computer automation and exercise of skill.” The definitions are clearly in line with how e-sports are defined. Nagaland also contains a Schedule which lists out the category of games that fall under “games of skill”. The list is wide enough to include all types of esports.

Though “Sports” is a state subject, for national & International sports development, the Union government exercises residuary power under Article 248 with Entry 97⁵⁴, Entry 10,⁵⁵ and Entry 13⁵⁶ of List I. In *Mr. Narinder Batra v. Union of India*⁵⁷, it was observed, “The power to make laws with respect to sports as per Entry 33 in List II of the State legislature is to be construed as a power to legislate and regulate sports restricted to the precincts of the state and ending at its boundaries.”⁵⁸ It was further observed that “.....to represent India as a nation at international sports meets as well as international forums, it is an essential part of Government function that scrutiny is effected by the sporting event or the forum in which participation is proposed. The source of the legislative competence of the Government to do so is derived from entries 10 and 13 of List I.”⁵⁹

⁵² Sec. 2(3) of the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015.

⁵³ Explanation to Sec. 2(3) of Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015 provides, “Explanation: For the purposes of this Act:- (I) All games provided in Schedule A of this Act shall fall under the category of "Games of skill" (ii)'Games' which have been declared or determined to be 'games of skill' by Indian or international courts or other statutes, or games where there are domestic and international competitions and tournaments, or games which can be determined to be 'games of skill' shall further be entitled to be included in Schedule A. (iii) Games of skill may be (a) Card based and (b) action/ virtual sports/ adventure/mystery and (c) calculation/strategy/quiz based”.

⁵⁴ “Any other matter not enumerated in List II or List III, including any tax not mentioned in either of those Lists.”

⁵⁵ “Foreign affairs; all matters which bring the Union into relation with any foreign country”.

⁵⁶ “Participation in international conferences, associations, and other bodies and implementation of decisions made thereat”.

⁵⁷ W.P. (C) 7868/2005.

⁵⁸ *Id.* at Para 68.

⁵⁹ *Id.* at Para 85.

Based on the above observations, it was held, “...sports, when construed from the aspect of Entry 33 in List II has to be confined to sports at the state level alone.”⁶⁰ Therefore, like other sports, for the national and international promotion of e-sports, the Government of India has to take initiatives.

Presently, e-sports in India are looked after by the E-Sports Federation of India, which is a member of various international e-sports federations.⁶¹ Unfortunately, it is yet to be recognized as the national sports federation by the Ministry of Youth Affairs and Sports. The Lok Sabha member, Dr. Shashi Tharoor, introduced the private bill on online gaming titled “The Sports (Online Gaming and Prevention of Fraud) Bill, 2018.”⁶² Although the Bill could not be discussed due to the dissolution of the session, the online gaming industry highly appreciated it for bringing the matter before the legislation.

In 2022, “the Online Gaming (Regulation) Bill, 2022” was introduced in the Lok Sabha to regulate online gaming. Besides, the “Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021” and the “Digital Personal Data Protection Act, 2023” have been released by the Ministry of Information Technology, which will have an impact on e-sports and online gaming.

III. Women In E-Sports

“In 2021, 41.5 percent of video gamers in the United States were females,”⁶³ and “in contrast to 41% of males, only 15% of females are fans of e-sports.”⁶⁴ Globally, about 22% of females are fans of e-sports, with the highest number of females in South Korea.⁶⁵ In India, as of April 2022, “About 60 percent of females and 70 percent of males played games online in the

⁶⁰ *Id.* at Para 89.

⁶¹ About E-Sports Federation of India, <https://esportsfederation.in/> (Last visited on 3rd Feb., 2025).

⁶² The Sports (Online Gaming And Prevention Of Fraud) Bill, 2018, available at: <https://theleaflet.in/wp-content/uploads/2019/01/THE-SPORTS-ONLINE-GAMING-AND-PREVENTION-OF-FRAUD-BILL-2018.pdf> (Last visited on 10th Jan., 2025).

⁶³ Distribution of video game users in the United States in 2021, by gender, available at: <https://www.statista.com/forecasts/494867/distribution-of-gamers-by-gender-usa> (Last visited on 12th Jan., 2025).

⁶⁴ Level of interest in eSports in the United States as of September 2021, by gender, available at: <https://www.statista.com/statistics/1108273/esports-interest-gender> (Last visited on 12th Jan., 2025).

⁶⁵ Christina Gough, Global Female esports audience share 2019, by country, available at: file:///E:/E%20sports/About%20E-Sports/Global%20female%20eSports%20audience%20by%20country%202020%20_%20Statista.html (Last visited on 12th Jan., 2025).

surveyed time duration.”⁶⁶ Some of the famous female e-sports players, having a huge fan following, are Shafgupta Iqbal aka “Xyaa”, Payal Dhara, Deepanshi Rawat, aka “Dobby,” Krutika Ojha & Saloni Panwar, the first Indian woman to compete at an International E-Sports Tournament held in Thailand.⁶⁷

As e-sports is gaining recognition as “a multi-sport event,” it is important that it adheres to the basic principles of sports. One such principle recognized by all sports organizations or federations is “Gender Equality”. The fundamental principles of the Olympic charter provide for the freedom to play sports irrespective of sex or sexual orientation.⁶⁸ According to the statute of the International E-Sports Federation, one of the missions is to “ensure the open access to E-sports regardless of gender & sexual orientation”.⁶⁹ To achieve this mission, some concrete measures need to be taken by all stakeholders in the e-sports industry.

Opportunities for women in E-Sports

Esports have a great opportunity to develop as one of the most gender-neutral sports. It presents various opportunities to women and others, irrespective of their gender. However, there is a need to address some challenges that can harm women's participation in e-sports.

Sex Integrated Sport

The modern Olympic Games, first held in 1896, were intended as an all-male event. Eventually, when women’s participation was allowed, the social structure was such that sports events, like other sectors, were segregated based on sex. In 1928, 5 American women participated in the track event, which was strongly opposed.⁷⁰ But in 1932, Mildred “Babe” Didrikson Zaharias disproved this perception otherwise by setting the Olympic record in three track events, playing with a male baseball team, winning a first golf tournament, and in 1950 was chosen as Women's

⁶⁶ *Supra* note 36.

⁶⁷ Michelle, Top 5 female Streamers Conquering the Gaming Industry in India, available at: [E:/E%20sports/Gender%20&%20Esports/Top%205%20Female%20Streamers%20Conquering%20The%20Gaming%20Industry%20in%20India%20-%20FanClash.html](https://www.esports.com/industry/gaming/2025/01/12/top-5-female-streamers-conquering-the-gaming-industry-in-india-fan-clash.html) (Last visited on 12th Jan., 2025).

⁶⁸ Kruthika N. S., ESports and Its Reinforcement of Gender Divides, 30 *MARQ. Sports L. REV.* 349 (2020).

⁶⁹ Statutes of International E-Sports Federation, available at: <https://iesf.org/wp-content/uploads/2022/04/IESF-Statutes-2021.pdf> (Last visited on 10th Jan., 2025).

⁷⁰ Karen Tokarz, *Women, Sports and the Law: A comprehensive Research Guide to Sex Discrimination in Sports 4* (W.S. Hein, New York, 2000).

Athlete of the Half Century by the Associated Press.⁷¹ In 1973, Billie Jean King, in her 30's, defeated Bobby Riggs in the famous 'Battle of the Sexes'.⁷²

In 1972 American Congress passed *Title IX of the Education Amendment of 1972*, which resulted in a huge increase in women's participation in sports in America.⁷³ But *Title IX* proved to be a double-edged sword. Although it increased the opportunity for women in sports, it also formalized the normative binary sex segregation in sports in America. Many feminists, authors, and women athletes started questioning whether separate opportunities for women in sports lead to equality in sports. Those who support such binary classification argue on the grounds of distributive justice and positive discrimination. But those who oppose argue that sex segregation is based on the assumption that women are not equal to men, and it reinforces the gender stereotype in sports.⁷⁴ The response of the US judiciary on this issue is mixed. In *O' Connor v. Board of Education*⁷⁵, U.S. Supreme Court upheld the sex segregation in basketball games, but in later decisions like *Beattie v. Line Mt. Sch. Dist.*,⁷⁶ the Court held that excluding female high school wrestlers from all-male wrestling teams violated the Equal Protection Clause.

In India, Articles 14 to 16 lay the principle of equality before the law without any discrimination based on sex. But the social roles and norms have always created barriers to the effective enforcement of this right. *C. B. Muthamma v. Union of India*,⁷⁷ *Air India Etc. v. Nergesh Meerza & Ors.*,⁷⁸ and the recent decision of the *Secretary, Ministry of Defence v. Babita Puniya*⁷⁹, are some of the cases where women challenged decided sex roles and won their right to equality. So far, in India, there have been no judicial challenges to sex-segregated sports. It has been conveniently accepted because of our social structure.

⁷¹ *Id.* at 5.

⁷² Susan Ware, *Game, Set, Match: Billie Jean King and the Revolution in Women's Sports* 75 (The University of North Carolina Press, 2015).

⁷³ *Id.* at 9.

⁷⁴ Nancy Leong, "Against Women's Sports" 95(1) *Washington University Law Review* 1 (2018).

⁷⁵ 449 U.S. 1301 (1980).

⁷⁶ 992 F. Supp. 2d 384 (M.D.Pa.2014).

⁷⁷ 1979 AIR 1868, 1980 SCR (1) 668.

⁷⁸ 1981 AIR 1829, 1982 SCR (1) 438.

⁷⁹ 2020 SCC Online SC 200.

Despite the rising voices against sports segregation, traditional competitive sports are still segregated based on sex. The prevailing binary structure in sports also creates challenges for transgender/intersex individuals. But e-sports organizations have an opportunity to overcome this and provide an equal platform to all genders by organising mixed-player games. The nature of e-sports is such that it does not rely on physical strength or speed, which are typically the primary reasons for segregating traditional sports. Rather than physical ability, e-sports emphasize mental agility and quick strategic thinking to outmaneuver opponents. In this way, the e-sports industry has a huge opportunity and scope to promote gender equality by organizing all-gender integrated e-sports competitions. It will provide an equal platform to women and other genders as well.

Access & Anonymity

E-sports are virtual sports, which can be played conveniently at home. There is no need for physical presence. Moreover, the majority of esports can be played on mobile devices, which are widely accessible to women today. Such kind of access to sports is not available in traditional sports. Women who are not allowed to physically mingle with the outside world, due to religious or social reasons, can also have access to e-sports. Another important feature of these e-sports is anonymity. Most e-athletes have characters in games called “avatars,” and players can name their avatars as they like. Therefore, there is no need to provide any kind of personal information to the outside world. A person of any gender, sexual orientation, or occupation can play these sports without disclosing their true identity to the outside world. Hence, e-sports can provide freedom and equal space to such women who otherwise would not be able to play traditional sports.

According to the 19-year-old PUBG and DOTA participant, Mahrukh, from Gilgit-Baltistan, Pakistan, “I just want to prove..... people say I cannot be like boys, that thinking makes me more frustrated, and that might be the reason for me playing these games.”⁸⁰ As per the study conducted in Gilgit-Baltistan, Pakistan, “The participants unveiled that they use e-sports to show their true selves and to escape the collectivistic culture and societal norms. Additionally, various social and psychological factors motivated participants to use e-sports as a vehicle for liberation and freedom.”⁸¹ Some of the primary reasons that motivated them to participate in e-sports were

⁸⁰ Umer Hussain, Bo Yu, George B. Cunningham & Gregg Bennett, “I Can be Who I Am When I Play Tekken 7”: E-sports Women Participants from the Islamic Republic of Pakistan, 16(8) Games and Culture 979 (2021).

⁸¹ *Id.* at 986.

“freedom, autonomy, escapism, and privacy”.⁸² Women deliberately used “gender camouflaging” to keep themselves anonymous and to avoid any kind of sexual harassment & abuse.⁸³ E-sports provided them with privacy, which they were not able to find in their social structure.⁸⁴ Hence, e-sports can be a great way to build confidence and a sense of achievement in women, which they otherwise lack in conventional sports.

Barriers for women in E-Sports

Even though a large number of women are engaged in e-sports, they still face social and cultural barriers. To overcome these barriers, it is necessary to address the following concerns faced by women in e-sports.

Sexual Harassment

The misogynist approach seen in traditional sports also prevails in the world of online gaming. Men who lose to women often take an abusive approach. This abusive behavior often leads to sexual harassment and rape threats. Recently, an Indian e-sports player threatened rape and murder like the Nirbhaya incident while streaming live on YouTube.⁸⁵ According to a female e-athlete, “When guys get to know that I am a woman, they sometimes send me inappropriate messages, for instance, sexual messages. I do not like that at all.”⁸⁶ “Gamergate”, an “Online Harassment” campaign, is one of the worst examples of harassment in online gaming. It started after one of the male gamers accused his girlfriend of infidelity at a gaming platform, which resulted in a full-fledged sexual harassment or mob lynching type campaign where not only the ex-girlfriend of the player but all the women who came in her support were brutally abused and even threatened with rape.⁸⁷ In another incident, a transgender e-athlete was harassed with sexist

⁸² *Id.* at 987, 988.

⁸³ *Id.* at 987.

⁸⁴ *Id.* at 989.

⁸⁵ Mayank Mohanti, Indian Gamer Threatens Sexual Assault In YouTube Video, With Nirbhaya Rape Reference, available at: <https://www.indiatimes.com/technology/news/indian-gamer-threatens-sexual-assault-in-youtube-video-nirbhaya-rape-reference-537828.html> (Last visited on 10th Jan., 2025).

⁸⁶ Umer Hussain, Bo Yu, George B. Cunningham & Gregg Bennett, “I Can be Who I Am When I Play Tekken 7”: E-sports Women Participants from the Islamic Republic of Pakistan, 16(8) Games and Culture 994 (2021)

⁸⁷ Caitlin Dewey, The only guide to Gamergate you will ever need to read, available at: <https://www.washingtonpost.com/news/the-intersect/wp/2014/10/14/the-only-guide-to-gamergate-you-will-ever-need-to-read/> (Last visited on 11th Jan., 2025).

and transphobic comments.⁸⁸ There have been many incidents of sexual harassment by the team players and even coaches of the e-sports team, which have been resolved with minor fines and punishment. Recently, in a class civil action suit against “League of Legends” publisher Riot Games for pay disparity, gender, and sexual harassment, Riot Games agreed to pay 100 million dollars as settlement money.⁸⁹ Even female media critics have been harassed for raising issues related to female characters in games.⁹⁰

Indecent Character Representation

The world of games is a virtual world, and the characters created in this world are often far from reality. Avatars are depicted as perfect body specimens far from reality, and such portrayals often have a negative effect. In the words of the female player, “.....they try to portray a woman, which is strong and beautiful, but chubby and broad women can be strong, but they try to portray women’s image, which is strong, and she is bad-ass at the same time, and she is beautiful and perfect”.⁹¹ According to some of the studies, online games are often made for the “male gaze”, hence, they often have characters and portrayals according to males.⁹² The female characters are objectified and often depicted in a sexualized manner, whereas male characters are depicted more as muscular.⁹³ Since the games are made from the male perspective, women players are often criticized for playing such games and wasting their time.⁹⁴ According to some studies, the sexualized representation of women in video games also discourages women players from participating in such games, as it often leads to online harassment from male players.⁹⁵ Although

⁸⁸ John T. Holden, Thomas A. Baker III, & Marc Edelman, *The #E-Too Movement: Fighting Back Against Sexual Harassment in Electronic Sports*, 52 *Ariz. St. L.J.* 12 (2019).

⁸⁹ *Esports: League of Legends publisher Riot Games settles gender discrimination case for \$100 million*, available at: [file:///E:/E%20sports/Gender%20&%20Esports/Esports_%20League%20of%20Legends%20publisher%20Riot%20Games%20settles%20gender%20discrimination%20case%20for%20\\$100%20million%20-%20Sportstar.html](file:///E:/E%20sports/Gender%20&%20Esports/Esports_%20League%20of%20Legends%20publisher%20Riot%20Games%20settles%20gender%20discrimination%20case%20for%20$100%20million%20-%20Sportstar.html) (Last visited on 12th Jan., 2023).

⁹⁰ Kruthika N. S., *ESports and Its Reinforcement of Gender Divides*, 30 *MARQ. Sports L.REV.* 357 (2020)

⁹¹ Umer Hussain, Bo Yu, George B. Cunningham & Gregg Bennett, “I Can be Who I Am When I Play Tekken 7”: *E-sports Women Participants from the Islamic Republic of Pakistan*, 16(8) *Games and Culture* 994 (2021).

⁹² Kruthika N. S., *ESports and Its Reinforcement of Gender Divides*, 30 *MARQ. Sports L.REV.* 352 (2020).

⁹³ *Supra* note 91.

⁹⁴ *Supra* note 92 at 353.

⁹⁵ *Id.* at 354.

it is the virtual world, to bring e-sports to the same platform as other sports, e-sports must be made closer to reality.

Stereotype Attitude

As discussed earlier, often when any male player loses to a women player, it is not taken with a healthy sportsmanship attitude. Such a negative stereotype attitude also creates a hurdle for women players. In 2016, SeYeon Kim, a professional e-sports player, was accused of cheating through program-enhancing codes, as no one was willing to believe that a teenage girl showed good skills in online gaming.⁹⁶ Ultimately, she had to prove her innocence by going public and live-streaming her skills.⁹⁷ Such stereotypical attitudes create obstacles for women players in e-sports and online gaming. In traditional games, women are treated as weaker than men in speed and strength, but e-sports have an advantage in this respect. Therefore, the societal stereotype attitude needs to be addressed in high-tech e-sports culture to encourage more women's participation.

Legal Framework against Sexual Harassment

According to the Declaration on the Elimination of Violence against Women, 1993, violence against women includes, “Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere...”⁹⁸ The fourth World Conference on Women defines “violence against women” as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”⁹⁹ It encompasses “Physical, sexual and psychological violence occurring within the general community, including... sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere...”.¹⁰⁰ Article 11 of the Convention on the Elimination of all Forms of

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ Article 2(b) of the Declaration on Elimination of Violence against Women, 1993, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women> (Last visited on 10th Dec., 2024).

⁹⁹ The United Nations Fourth World Conference on Women, 1995, available at: <https://www.un.org/womenwatch/daw/beijing/platform/violence.htm> (Last visited on 25th July, 2024).

¹⁰⁰ *Ibid.*

Discrimination against Women, 1979 (CEDAW) requires state parties to take measures to eliminate discrimination in employment and provide a safe environment for women.¹⁰¹ Art. 1.4 of the Olympic Code of Ethics states, “Respect for international conventions on protecting human rights insofar as they apply to the Olympic Games activities and which ensure in particular: the rejection of all forms of harassment and abuse, be it physical, professional or sexual, and any physical or mental injuries.”¹⁰²

Indian Legal Framework

In *Vishakha v. State of Rajasthan*¹⁰³, then Chief Justice J.S. Verma, while giving the guidelines on the matter of sexual harassment, observed, “Each such incident results in a violation of the fundamental rights of ‘Gender Equality’ and the ‘Right of Life and Liberty’. It is a clear violation of the rights under Articles 14, 15, and 21 of the Constitution. One of the logical consequences of such an incident is also the violation of the victim’s fundamental right under Article 19(1)(g) to practice any profession or to carry out any occupation, trade or business.”

The “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” (hereinafter “2013 Act”). The 2013 Act lays out a wide definition of “Sexual Harassment” under Sec. 2(n)¹⁰⁴ to be read with Sec. 3¹⁰⁵ of the 2013 Act. Under Sec. 2(o) (iv) of the 2013 Act, “Workplace” includes “any sports institute, stadium, sports complex or competition or games venue, whether residential or not, used for training, sports or other activities relating

¹⁰¹ “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment to ensure, on basis of equality of men and women, the same rights, in particular: (a) The right to work as an inalienable right of all human beings; (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.”

¹⁰² IOC Code of Ethics, <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/What-We-Do/Leading-the-Olympic-Movement/Code-of-Ethics/EN-IOC-Code-of-Ethics-2016.pdf> (Last visited on 25th Jan., 2025)

¹⁰³ (1997) 6 SCC 241

¹⁰⁴ An act of “Sexual Harassment” includes, “any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely: (i) physical contact and advances; or (ii) a demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.”

¹⁰⁵ “(2) The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:—
(i) implied or explicit promise of preferential treatment in her employment; or
(ii) implied or explicit threat of detrimental treatment in her employment ; or
(iii) implied or explicit threat about her present or future employment status; or
(iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
(v) humiliating treatment likely to affect her health or safety”.

thereto.” The 2013 Act lays down in detail the internal complaint & investigation procedure to be followed by the “employer,” which will include all government and non-government sports organizations. To further clarify the provisions, in the exercise of a power conferred under Sec 29 of the 2103 Act, the government passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.¹⁰⁶

In online sexual harassment, the Information Technology Act, 2000 (hereinafter “IT Act”) is also relevant. “Sending offensive messages through a communication service” is a punishable offence under Sec. 66A of the IT Act.¹⁰⁷ Whosoever “intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent” is punished for violation of privacy under Sec. 66E of the IT Act. Publication or transmission of “obscene material”¹⁰⁸, “material containing sexually explicit acts”,¹⁰⁹ and “material depicting children in a sexually explicit act”¹¹⁰ in electronic form is punishable under various provisions of the IT Act. Since the PROG Act does not contain provisions related to online harassment, the IT Act will be the main legislation applicable in cases of harassment in online gaming and e-sports, along with the 2013 Act and the Bhartiya Nyaya Sanhita, 2023.

IV. CONCLUSION

Advancements in information technology have impacted various sectors of the economy, including sports. E-sports are competitive video games played in a professional setup by gamers called “e-athletes”. It is rapidly becoming an important part of the economy, including in India. Though it is still looking for recognition at the Olympics, a large number of international and inter-country e-sports events are being organized. The anonymity and easy access to their privacy

¹⁰⁶ the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, *available at*: https://www.iitk.ac.in/wc/data/Rules_Sexual-Harassment-at-Workplace.pdf (Last visited on 10 Dec., 2025)

¹⁰⁷ “Sec. 66A. Punishment for sending offensive messages through communication service, etc.—Any person who sends, by means of a computer resource or a communication device,— (a) any information that is grossly offensive or has menacing character; or (b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device; (c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages, shall be punishable with imprisonment for a term which may extend to three years and with fine.”

¹⁰⁸ Section 67 of the Information Technology Act, 2000.

¹⁰⁹ Section 67A of the Information Technology Act, 2000.

¹¹⁰ Section 67B of the IT Act, 2000.

provide amazing opportunities to women who are otherwise not able to participate due to social and cultural barriers. E-sports also affords prospects for “sex-integrated” or “mixed sports,” which are otherwise difficult due to biological reasons in traditional sports. This virtual sports platform can break the traditional barriers that impact women’s participation in sports. But unfortunately, the gaming industry is also affected by traditional masculine thinking. The e-sports being largely dominated by men face gender stereotypes and stigmas, like online sexual harassment, etc. To overcome such hurdles, all stakeholders need to address such hostile work environment attitudes.

India has recently allocated the “promotion of e-sports as a multi-sports event” to the Ministry of Sports & Youth Affairs. At the same time, “online gaming” was allocated to the Ministry of Information Technology. But e-sports are not separate from online gaming. To promote it as a “sport,” both ministries will need to work in coordination. The PROG Act, although a landmark step towards regulating online games, does not address the issue of online harassment and women in esports. Other legislations that impact e-sports, like the IT Act, 2000, and the Sexual Harassment Act, 2013, etc., will have to be amended to deal with the emerging issues of e-sports. The E-Sports Federation of India needs to be recognized by the Government of India and encourage corresponding state e-sports federations to recognize e-sports talent in India. A regulated pool of players will also discourage gender harassment and other online violence, as the players will have a sense of responsibility as e-athletes. It will also act as a platform to encourage participation, irrespective of gender, in Indian e-sports.

Given that the virtual world transcends national boundaries, there is a clear need for an international body to regulate e-sports in a coordinated manner. As e-sports continue to emerge and evolve, it is crucial to address issues related to women’s and other genders' participation from the outset. Collaborative efforts by countries to tackle gender harassment and related concerns will foster a more inclusive and diverse environment, encouraging broader gender participation in e-sports.