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Regulation of Online/Offline Video Games: Parental Supervision or Government Coercion

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In this digital era, technological growth is welcomed but its negative impacts are not. This paper has discussed the PIL filed for banning online/offline video games, which are causing addiction to children and young adults. This addiction is ultimately depreciating their productivity and affecting their mental health as well. Until and unless, this addiction is not regulated, it will bring the children and young adults of our country into a savage land and will put the country into a precarious situation. This article has discussed how government can regulate the laws with respect to online gaming and thus, control the addiction of online gaming among children and what role a parents' supervision can play in controlling the addiction. But since, every regulation or law has a loophole, so the government regulation may not play an effective role in checking this menace of addiction. This paper concludes with the idea that the increasing prevalence of online/offline gaming as a popular form of entertainment, especially in the time of this pandemic, is making it more pressing on the government of India to make specific regulations and laws preventing online/offline gaming addiction. For the effective implementation of the laws and for addressing this increasingly urgent social issue the government regulation and parental supervision must go hand in hand.

Keywords: addiction, video games, children, young adults, regulation.

INTRODUCTION

The COVID-19 pandemic has influenced our lives in many ways. For instance, the mode of education of students and how an individual chooses to spend his time. This pandemic has caused widespread schools/colleges closures and students across the country have been given the alternative to study online. But in this present digital age, technological advancements have given us a sterling benefit i.e., the “internet”, in which every source of information or entertainment is just a click away and so has the video games. One can play video games online or can download them and play offline.

As many countries have imposed restrictions on the movement of people and are encouraged to stay at home, as a part of efforts to reduce coronavirus cases. But these restrictions have a great impact on the lifestyles of people and their mental health. Hence, to look after mental health, WHO has recommended playing video games as a part of the #HealthyAtHome campaign.¹ But excessive engagement in these videos games, especially in the case of children and youth, may result in Internet Gaming Disorder (IGD). Therefore, balancing the time spent in gaming is paramount. In light of the same, there is a need for immediate attention to discuss the modes of balancing. The government regulation and ban of video games would serve the best interest or it is the eyes or ears of parents of the children that should decide what is in the best interests of their children.

E.Martin Jayakumar v. Union of India and Ors. (W.P. No. 13600 of 2021)

Recently, a Public Interest Litigation was filed in the High Court of Judicature at Madras on July 1, 2021, by Advocate E.Martin Jayakumar, seeking a ban on all Online and Offline video Games that children and young adults are currently addicted to.

This petition was filed under Article 226 of the Constitution of India for the issuance of the Writ of Mandamus directing the respondents (Government of India) to ban all Online and Offline Video games. The petitioner also insisted upon a mechanism to track devices such as

¹ World Health Organisation, '#Healthyathome' (*Who.int*) <<https://www.who.int/campaigns/connecting-the-world-to-combat-coronavirus/healthyathome/healthyathome---mental-health>> accessed 09 July 2021

mobiles, laptops, Personal Computers, etc. that are used for attending Online Classes and playing video games. The petitioner complained of the Online Business enterprises preying on the children and young adults proffering a variety of games that are addictive.

The petitioner said that since mobile phones have completely taken over our lives and the children and minors ask for these mobile phones earnestly and thus obtain them; they are enticed by unscrupulous business enterprises. Especially in the time of this pandemic, when there is lockdown and schools and education institutions are closed, many children and young adults are addicted to online and offline video games. He perceived the addiction to be devastating and life-threatening too because it destroys the career-building phase of children and young adults and might even lead to suicidal tendencies among them. Also, there could be issues like, extreme anger against parents and elders, who are seeking to check the habit.

The Madras High Court said that there is no doubt that children and young adults are addicted to mobile phones and video games all the time these days. But it is for the elected executive, not the court to address the psychological issues that are faced by children and young adults due to the addiction to Online and Offline video games.

The First Division Bench of Chief Justice Sanjib Banerjee and Justice Senthilkumar Ramamoorthy, while declining to entertain this PIL wrote, "It is only upon the failure of the executive to act and thereupon, the court, perceiving the matter a danger to society, ought to step in." The Bench however warned that the Courts cannot impose the personal sense of morality upon such matters of public interest by observing, "However, even constitutional courts should be slow in entering into such matters on the personal sense of morality of the individual complainant or of the Judge or Judges concerned." Agreeing with this concern of the petitioner over the growing menace of the children and young adults being addicted to mobile phones, the judges wrote,

"Oftentimes, a family could be together and sitting at a table but each member would be using the phone even to describe the dish that he may be having or the quality of the food at the moment." The Bench, while disposing of the PIL, opined that the issue on hand required a

more substantial and studied policy decision to be taken off by the executive than what could be possible before any court. The judges permitted the petitioner to make representations to the Union Ministry of Women and Child Development, in addition to the State Government within four weeks and ordered that such representations must be disposed of within eight weeks.²

CAN GOVERNMENT REGULATE THE ADDICTION OF VIDEO GAMES AMONG CHILDREN BY LEGISLATION?

There is no such statutory provision in India, that regulates the addiction of video games among children and young adults. Nevertheless, there are some laws for the regulation of the content of video games in India. As the creation of video games comes under the freedom of expression, so they can be regulated by Article 19 of the Constitution of India which guarantees that all citizens have the fundamental right to speech and expression and under Article 19(1)(g), the gaming companies have a right to conduct or practice their business. However, video games can be restricted in the interest of decency and morality.³

Also, the government could regulate or censor the content of video games, that are slacking off the welfare of the children, under Article 39(f) of the Constitution of India. This Directive Principle of State Policy provides children are given opportunities and facilities to develop in a healthy manner and conditions of freedom and dignity and that childhood and youth are protected against exploitation and moral and material abandonment.⁴

Section 293 of the Indian Penal Code deals with the sale of 'obscene objects' to persons who are under the age of 20 years. When the 'obscene objects' are interpreted in a wider sense, the sector of video games can come in its ambit. The punishment for this is imprisonment for a term which may extend to three years and a fine which may extend to Rs.2000/-. Similarly,

² Aaratrika, 'No Doubt Children are Addicted to Online Games but Court cannot impose Personal Sense of Morality: Madras High Court' (*Livelaw.in*, 2021) <<https://livelaw.in/news-updates/madras-high-court-ban-on-all-online-and-offline-video-games-that-children-and-young-adults-morality-176673>> accessed 11 July 2021

³ Aaroha Kulkarni, 'Victims of the Virtual Vortex: Regulation the Video Game Industry in India' (2020) 7 RMLNLU Law Journal

⁴ Constitution of India, art 39(f)

Section 67A of the Information Technology Act, 2000 provides that any material in electronic form, which contains sexual act or conduct, shall be punished with imprisonment which may extend to five years, and a fine which may extend to ten lakhs rupees. The Indecent Representation of Women (Prohibition) Act, 1986, is a special law that curtails the indecent representation of women. Hence, a video game that indecently depicts women can be punished under this with imprisonment up to two years and a fine of Rs.10,000/-.⁵

Also, the state government can decide what games it can ban and legislate laws on them, as betting and gambling are the state subjects, mentioned in the List-II of the Seventh Schedule of the Constitution of India. For instance, Telangana was the first state to ban online gaming recently, followed by, on 20, Nov 2020, the Government of Tamil Nadu Passes an Ordinance namely, “The Tamil Nadu Gaming and Police Laws (Amendment) Ordinance, 2020”, which prohibited the online gaming.⁶

But the problem that arises here is that there is no specific law in India related to the regulation of addiction of online/offline video games that harm children and adolescents of our country. Is the banning of online games through legislation is a solution to control the addiction of online/offline games? In my opinion, state governments should introduce a legal framework that can regulate online gaming. Because an absolute ban on online games may give rise to illegal gaming activities or pirated versions of games.

PARENTAL SUPERVISION

In a free society, it is the parents of the children are the one who decides that what their children do. But how should the parents supervise if they found their children of online gaming addiction? How they are supposed to know that their child is too dependent on gaming? Let’s look into the answers to these questions.

⁵ Aaratrika (n 2)

⁶ Bushra Tungekar, 'Banning of Online Gaming in Tamil Nadu' (*iPleaders*, 2021)

<<https://blog.ipleaders.in/banning-online-gaming-tamil-nadu/>> accessed 13 July 2021

If the children are talking about their game incessantly, and they play continuously for hours and hours and get angry or defensive when elders made them stop. If the daily needs like eating, sleeping of the children are disrupted and there are constant complaints of headaches, soreness in the fingers, or red eyes because of their gaming habits, then they are likely to have an addiction.

But parents can tackle this problem to addiction of the online/offline games of their children without panicking. The best way to resolve this is by being present in the gaming world of their children and playing together with them. It can help in setting healthy limits. It's not easy for all the parents to get familiar with gaming but this approach can be very helpful in tackling this issue and can create an amicable environment at home. They can make sure that the games are age-appropriate and content-appropriate or not. Parents can even carry out a digital detox and establish the screen balance guidelines. They can put parameters down when it comes to how long their children can play the video games and not allow children to have gadgets in their rooms after the lights are off. Parents can ensure that their children have alternative activities like sports or clubs that make them engage with their friends in the real world.⁷

INTERNATIONAL PERSPECTIVE

World Health Organization (WHO) has defined "Gaming Disorder" as a pattern of persistent or recurrent gaming behavior and it is so severe that it can take precedence over other interests of life. The symptoms of such gaming disorder include dysfunctional control over gaming, increased priority of gaming despite the negative impacts of it on studies, work-life, social life, relationships, or spiraling financial costs. Many countries are wrestling with this issue of online gaming addiction of children and adolescents. Let's have a look at how countries are dealing with this issue globally.

⁷ Andy Robertson, 'Advice to Prevent Gaming Addiction in Young Children' (*Internet Matters*) <<https://www.internetmatters.org/hub/question/gaming-addiction-can-prevent-children-developing/>> accessed 13 July 2021

The Government of South Korea has introduced a law that bans access for children under 16 years of age from online games between 12:00 to 6:00 KST. In Japan, players are alerted when they spend more than a certain amount of time each month while playing games.⁸

In China, the problems of nearsightedness and poor academic performance among children and young adults have been identified by the top officials. The blame for these problems is on the addiction to video games. So, to curb the addiction, The National Press and Publication Administration announced some regulations like, the users younger than 18 years of age are banned between 10 p.m. and 8 a.m. They are not permitted to play more than 90 minutes on weekdays and three hours on weekends and holidays. Also, the minors would be required to use their real names and identification numbers when they logged in to play games. The rules also limit the expenditure of young people on purchases made through applications such as virtual weapons, clothes, pets, etc. Depending upon age, those purchases are now capped at \$28 to \$57 a month. Biggest companies like Tencent and Netease, have already imposed limits on younger users.⁹

CONCLUSION

With the growth of technology, the menace of addiction to online and offline video games has occurred. Throughout the paper, various ways of controlling this addiction have been seen. Although the governments of various countries are taking steps to address this issue, most are not highly effective to check this addiction in children and young adults. Because, children and young adults would still find ways to play video games by using their parent's phone or identification number, where there is an age restriction. They can also go for offline games, that do not require an internet connection and hence, are difficult to regulate by the government. To protect the interests of children and adolescents from the ill effects of addiction, a legal framework is the need of the hour, otherwise, the nation will be in a perilous

⁸ 'Children Treated or Computer Gaming Addiction under NHS Long Term Plan' (*England.nhs.uk*, 2021) <<https://www.england.nhs.uk/2019/10/children-treated-for-computer-gaming-addiction-under-nhs-long-term-plan/>> accessed 15 July 2021

⁹ Javier C Harnandez and Albee Zhang, '90 Minutes a Day, until 10 P.M.: China Sets Rules for Young Gamers' (*Nytimes.com*, 2019) <<https://www.nytimes.com/2019/11/06/business/china-video-game-ban-young.html>> accessed 15 July, 2021

situation. Therefore, the government of India is obliged to take additional steps to curb this online gaming addiction.

But the regulation of video games by the government is not sufficient to curb this addiction. Apart from this, the supervision of parents plays a vital role in wrestling this menace. Parents need to limit the usage of gadgets by their children. Government can even help in educating the parents about online gaming addiction because, in India, many parents are unaware of the harmful effects of this addiction. Government agencies, businesses, organizations can even spread the awareness of family communication among parents and can also teach behavior that may help them in the supervision of their children and thus, help in curbing the online/offline gaming addiction among the children and young adults of our country.