



Regulation, not prohibition

The online skill gaming industry hopes that a reform-oriented policy structure will soon be in place.

Highlights:

1. The Karnataka High Court's verdict declaring as unconstitutional certain provisions of the Karnataka Police (Amendment) Act, 2021, which prohibited and criminalized the offering and playing of online games, is the third significant judicial validation for the sector.
2. This decision comes close on the heels of verdicts by the Madras and Kerala High Courts. All three High Courts have reaffirmed the Supreme Court jurisprudence that games of skill and games of chance (gambling) are two distinct legal concepts of constitutional significance, and that the former are legitimate business activities protected under our fundamental rights.



Bans despite precedents

1. The Stare Decisis goes back to the famous Chamarbaugwala cases (The State Of Bombay v. R.M.D. Chamarbaugwala and R.M.D. Chamarbaugwala v. The Union Of India), wherein the apex court held that in any game if the element of skill is dominant over the element of chance (a yardstick known as the preponderance test), it is a game of skill and cannot be construed as gambling.
2. Over the years, using this standard, the Supreme Court and various High Courts have held several games including rummy, fantasy sports, bridge, chess and horse racing to be games of skill.

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3. This position is also reflected in the Gambling Acts of most State governments, which often state: 'Nothing in this act shall apply to any game of mere skill'.
4. However, a few years ago, southern States started banning any game played for stakes, without making a distinction between games of skill and games of chance.

The rationale for the ban:

1. Despite clear precedents of the Supreme Court and the various High Courts, why did these State governments issue these bans? One persistent argument is that the Chamarbaugwala cases, which go back to the 1950s, are outdated now; that technology has progressed significantly and most games are played online.
2. The Madras and Kerala High Courts have held that games of skill do not metamorphose into games of chance if played online.
3. The Karnataka High Court has gone a step further and held that it is fallacious to argue that Chamarbaugwala jurisprudence needs a relook because it has been reaffirmed by a series of Supreme Court and High Court decisions since then.
4. The courts have also held that the government's argument that exposure to games of skill is leading to certain social evils such as addiction and financial distress is only anecdotal.
5. It is pertinent that the courts have objected to the total ban of the sector and have left it to the governments to effectively regulate it.
6. The online skill gaming industry too has urged the respective State governments to regulate the sector and come out with a policy structure that is based on checks and balances. A blanket ban is not only arbitrary but also leads to untoward situations such as the proliferation of illegal syndicates.





Reform-oriented policy structure

1. With the judicial validation, as well as Central government in the Union Budget announcing that an Animation, Visual Effect, Gaming and Comics promotion task force will be set up, it is important that the State governments work towards introducing a reform-oriented policy structure in this sunrise sector which has immense investment, revenue-generating potential, and creates employment.
2. The sector currently employs 40,000 people. Gaming also has multiplier benefits to several sectors that have been identified as focus areas by the Government of India, including semiconductors, telecom, fintech and animation/graphics.
3. Another positive economic dimension is that the sector has received massive foreign investment. In the last five years, the online gaming sector has received around \$1,700 million in venture capital and private equity.
4. Global investors feel confident about the sector not only because of India's favorable macroeconomic and demographic indicators but also because of unequivocal jurisprudence that differentiates games of skill from gambling.
5. An attempt by some State governments to sidestep or ignore the judicial decisions may not only be impractical but may also send a poor message to the international investor community about governments in India not respecting the sanctity of the judiciary.



Having repeatedly won judicial validation, the online skill gaming industry and its investors hope that situation this time is different, and the sector and government can work together to create a policy structure based on principles of light-touch regulation and not prohibition.



There's a jobs crisis. Acknowledge it

In the speech, the FM mentioned there were initiatives in the pipeline that could create six million jobs over the next five years. That is, an average of 1.2 million jobs each year. While there is a minor sense of relief that the government is finally taking cognisance of the jobs problem, unfortunately, the overwhelming feeling is that of inadequacy. The vague pronouncement betrays the government's lack of appreciation of the magnitude of the jobs problem.

The magnitude of Unemployment:

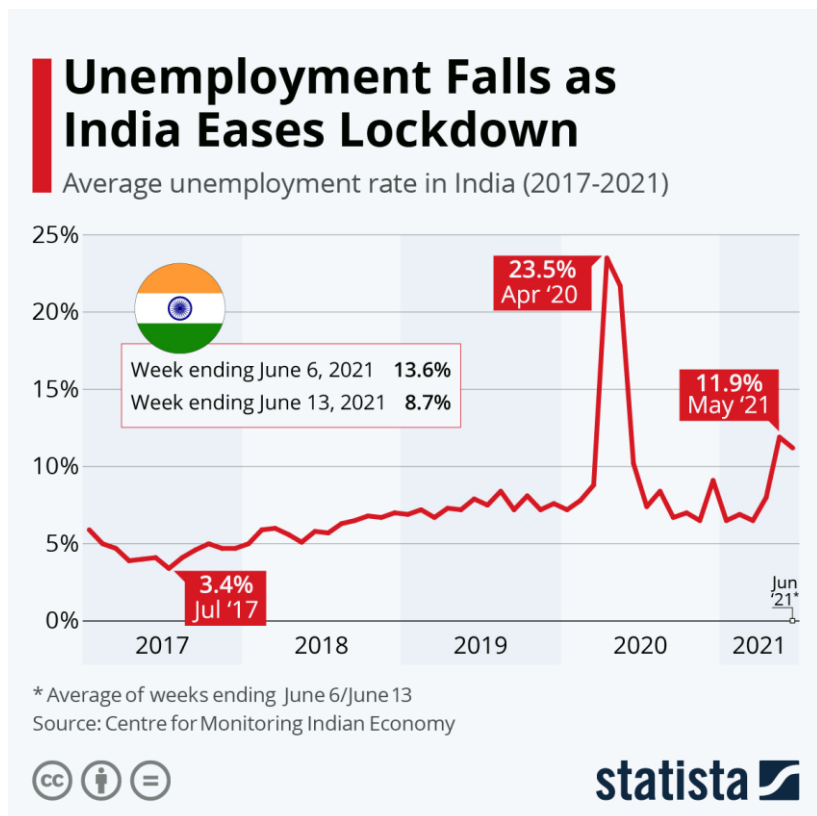
1. Roughly 18 million Indians turn 18 every year, of which a large majority enters the workforce.

Additionally, at least 100 million people need to get out of the low productivity and low-wage "jobs" in the agriculture sector — the disguised unemployed — and move into more productive non-agriculture jobs.

2. Finally, there's the stock of unemployed, which

amounts to roughly 200 million Indians who need a job today. These do not show up in unemployment numbers in a country where the labor force participation rate is below 42%, the lowest in comparable emerging economies.

3. The required rate of job creation is at least 20 million each year — a target removed from the government's subdued ambition.





Impact of persistently unemployed youth:

The consequences of a large population of unemployed youth can be drastic for India's social fabric. Unless India creates 20 million jobs every year, we are going to increasingly witness unrest, demands for reservation, political activism, and heightened societal disturbances.

Problem to economic growth and Solutions:

1. The answer to jobs is usually straightforward and requires economic growth. However, India's unique economic structure makes it a lot more complicated.
2. In order to achieve the scale of 20 million jobs, we need a Gross Domestic Product (GDP) growth above 10% every year and crucially, for employment elasticity to increase multiple times from the current level of 0.1%. Currently, a 10% increase in GDP results in about 1% increase in employment (elasticity), which needs to increase significantly.
3. The great GDP growth run that India witnessed in the last three decades has largely been jobless. Deep structural issues (labor laws, for instance) have rendered firms in a labor-abundant country to be capital intensive.
4. Large-scale manufacturing has a way of generating jobs, but manufacturing has just not taken off in India. Blame is rightfully laid at the doorstep of "archaic labor laws", the non-performing assets crisis, ease of doing business or the lack thereof.
5. There have been some improvements in these areas, but these leave a lot to be desired. A study by the International Labor Organization predicts India will have a severe skills shortage in the years to come and by 2030, we may have 29 million jobs that go unfilled because we do not have the right skills.
6. A massive thrust is needed to help Indians upskill. Career-impact bonds that leverage the financial market by securitising "at-risk" loans given to people seeking to upskill themselves could be a great way of sustainably skilling the nation for job readiness.

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Way Forward:

Cities as engines of economic growth and employment creators:

1. Cities are where jobs are created due to agglomeration effects and the availability of opportunities. With Indian cities being listed among the least liveable in the world, there is an opportunity to build new cities.
2. There is also an opportunity for building larger cities centered around educational institutions, industrial clusters or even large medical or transport hubs.
3. If we create 20-30 new cities with a population of around 8-10 million, we can generate a significant number of new jobs in building, maintaining and running those cities.

Tourism: Low hanging fruit

Tourism, an area that is criminally overlooked in policymaking, has a vast potential to create jobs, as international experience shows. For a country as large and diverse as India, this should be low-hanging fruit in the employment generation endeavor.

A Woman employed creates more jobs:

1. Creating a more enabling social environment where women can work with safety and dignity can increase women's labor force participation rate (WLFPR).
2. Encouragement to large manufacturers such as the garment industry has created a large number of jobs for women in Bangladesh; 80% of the four million people who work in the garment industry there are women.
3. Bangladesh has a WLFPR of 36% against the abysmal rate of below 20% for India. Every woman employed can create more than one job, because some of the unpaid housework is now outsourced to others.
4. Women entrepreneurs tend to hire more women. Helping women entrepreneurs access credit more easily can make a significant impact on jobs, especially for women.

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Other ideas: Emigration and Gig Economy

1. Other ideas to create jobs include entering into treaties with countries struggling with labor shortages and providing a safe emigration process.
2. The gig economy is creating many jobs but these come with huge income volatility and poor working conditions. Creating a safety net for gig workers will make a difference in supporting growth in this sector.

These are the outlines of some ideas for job creation, apart from many others that exist out there. The first step, however, is an acknowledgement of the magnitude of the problem and to think of solutions that can do justice on the required scale.