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SPORTS BETTING: JUDICIAL INTERPRETATION AND LEGAL CHALLENGES IN INDIA

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ABSTRACT

This paper explores the jurisprudential evolution of gaming and sports betting laws in India, analyzing the ongoing conflict between archaic colonial statutes and the dynamic realities of the digital economy. Historically, the Indian judiciary has served as the de facto regulator of the industry, establishing the "preponderance of skill" test to distinguish between constitutionally protected business activities under Article 19(1)(g) and prohibited games of chance (res extra commercium). Through a comprehensive analysis of landmark judgments—ranging from R.M.D. Chamarbaugwala (1957) to Varun Gumber (2017)—the research traces how the courts have consistently defended skill-based digital and physical enterprises against disproportionate and arbitrary state-level bans.

However, the paper highlights a contemporary constitutional crisis triggered by the recent enactment of the Promotion and Regulation of Online Gaming Act (PROGA), 2025. By imposing a blanket prohibition on all "Online Money Games" regardless of the underlying skill element, PROGA 2025 seeks to override decades of established judicial precedent. The study critically evaluates the ongoing legal challenges to the Act, specifically focusing on the Union's legislative competence, the disruption of the federal structure, and the violation of fundamental rights. Finally, it examines the counterproductive outcomes of this prohibitionist legislative approach, notably the proliferation of a \$100 billion offshore shadow market and the inadvertent criminalization of legitimate professional sports. The paper concludes that the upcoming 2026 Supreme Court hearings will be a watershed moment, determining both the survival of a multi-billion-dollar industry and the boundaries of parliamentary power over State subjects in the digital age.

Keywords: Sports Betting, Games of Skill vs. Chance, PROGA 2025, Judicial Interpretation, Article 19(1)(g)

INTRODUCTION

The Jurisprudential Evolution of Gaming Laws

The legal trajectory of gambling and gaming in India presents a fascinating study in the conflict between archaic colonial statutes and the dynamic realities of the digital economy. While

the socio-economic dimensions of the industry have expanded exponentially, as detailed in the preceding research papers, the legal scaffolding supporting this growth has remained perilously fragile, constructed primarily through judicial interpretation rather than legislative foresight. This research paper

provides an exhaustive analysis of the judicial mechanisms that have historically defined, restricted, and occasionally liberated the gaming sector, culminating in the contemporary constitutional crisis precipitated by the enactment of the *Promotion and Regulation of Online Gaming Act (PROGA), 2025*.

Historically, the Indian judiciary has served as the *de facto* regulator of the industry, tasked with interpreting the *Public Gambling Act, 1867*, a pre-internet legislation in the context of virtual poker tables and fantasy sports leagues. The central jurisprudential axis has been the distinction between "games of skill" and "games of chance." This dichotomy is not merely a semantic classification; it is the constitutional dividing line that determines whether an activity is a protected fundamental right under Article 19(1)(g) of the Constitution (the right to practice any profession, or to carry on any occupation, trade, or business) or a *res extra commercium* (an activity outside the pale of commerce) subject to the draconian police powers of the State.

This research paper traces the arc of judicial reasoning from the foundational Supreme Court rulings of the 1950s, which carved out a "safe harbour" for skill-based competitions, to the "consensus of courts" regarding fantasy sports in the late 2010s. It then examines the fierce tug-of-war between state governments, driven by a paternalistic mandate to curb addiction and financial ruin, and the High Courts, which have increasingly struck down state bans as disproportionate and arbitrary. Finally, the analysis turns to the seismic shift introduced by PROGA 2025, which seeks to override decades of "skill versus chance" jurisprudence by imposing a blanket ban on "Online Money Games" (OMG), thereby triggering a new wave of litigation challenging the legislative competence of the Parliament and the validity of the Act itself.

1.1 Landmark Judgments on Gambling: The Skill versus Chance Dichotomy

To understand the current legal crisis, one must first dissect the jurisprudential bedrock

established by the Supreme Court of India over the past seven decades. The judiciary's interpretation of "gambling" has consistently relied on the "dominant factor test" or the "preponderance of skill test." These rulings, though initially adjudicated in the context of newspaper crossword puzzles and physical horse racing tracks, established legal principles that today govern the fate of algorithmic gaming platforms.

1.1.1 The Doctrine of Severability: *R.M.D. Chamarbaugwala v. Union of India (1957)*

The genesis of India's gaming jurisprudence lies in the seminal case of *State of Bombay v. R.M.D. Chamarbaugwala (1957)*.¹⁹⁴⁸ This case challenged the constitutional validity of the *Prize Competitions Act, 1955*, a legislation designed to regulate and tax prize competitions that were proliferating in post-independence India. The petitioners, organisers of a popular crossword prize competition, argued that the stringent regulations and taxes imposed by the Act infringed upon their fundamental right to conduct business under Article 19(1)(g).

The Supreme Court, in a judgment that remains the cornerstone of gambling law, undertook a profound analysis of the nature of "trade" and "commerce." The Court held that gambling activities defined as those inherently pernicious and detrimental to public morals could not be elevated to the status of "trade" or "commerce" protected by the Constitution.¹⁹⁴⁹ Consequently, pure gambling activities were deemed *res extra commercium*, stripping them of constitutional protection and leaving them open to total prohibition by the State.

However, the Court introduced a critical nuance that would echo through decades of future litigation. It distinguished between competitions that were of a "gambling nature" (where success depended on chance) and those that involved a "substantial degree of skill." The Court applied the **Doctrine of Severability**, a

¹⁹⁴⁸ *State of Bombay v. R.M.D. Chamarbaugwala*, AIR 1957 SC 699; see also *R.M.D. Chamarbaugwala v. Union of India*, AIR 1957 SC 628.

¹⁹⁴⁹ *State of Bombay v. R.M.D. Chamarbaugwala*, AIR 1957 SC 699, s 38.

constitutional principle that allows courts to separate valid portions of a statute from invalid ones. The bench ruled that the provisions of the *Prize Competitions Act* were valid only insofar as they applied to competitions of a gambling nature. Crucially, the Court held that if a competition relied mainly on skill, such as a crossword puzzle in which the solution was not arbitrary but based on logic and knowledge, it would not fall within the definition of "gambling."¹⁹⁵⁰

Implications for the Industry:

- **Creation of a Legal Category:** The judgment effectively created a protected category for "skill-based enterprises." It established that while the state could ban gambling, it could not arbitrarily ban businesses that involved skill, even if they involved prizes.
- **The Skill Defence: This ruling provided the first legal defence** for future gaming operators: if they could prove their game was "preponderantly" skill-based, they could claim the protection of Article 19(1)(g).

1.1.2 The "Preponderance of Skill" Test: *State of Andhra Pradesh v. K. Satyanarayana* (1968)

In 1968, the Supreme Court refined the definition of "skill" in the case of *State of Andhra Pradesh v. K. Satyanarayana*.¹⁹⁵¹ The case arose from a police raid on a club in Hyderabad where members were playing the card game "Rummy" for stakes. The prosecution argued that the club was functioning as a "common gaming house" under the *Hyderabad Gambling Act*, and that Rummy was a game of chance.

The Supreme Court rejected the prosecution's argument, establishing the "**Preponderance of Skill**" test. The Court observed:

"Rummy requires a certain amount of skill because the fall of the cards has to be memorised, and the building up of Rummy

requires considerable skill in holding and discarding cards. We cannot, therefore, say that the game of Rummy is a game of pure chance. It is mainly and preponderantly a game of skill".¹⁹⁵²

This judgment was pivotal for two reasons. First, it acknowledged that "pure skill" is a theoretical impossibility in most games; even in games like Bridge or Rummy, the distribution of cards introduces an element of chance (the "deal"). However, the Court ruled that the presence of chance does not automatically render a game "gambling" if the *dominant* factor determining success is skill. Second, the Court clarified that playing a skill game for stakes (money) does not convert it into gambling. The illegality arises only if the club makes a profit from the gambling activity itself (the "house take" or "rake" on illegal bets), rather than a legitimate fee for service.¹⁹⁵³

Third-Order Insight: The *Satyanarayana* judgment inadvertently laid the groundwork for the modern "platform fee" business model employed by companies such as Gameskraft and Head Digital Works. By distinguishing between the "act of playing" (skill) and the "organisation of the game" (business), the Court validated the concept that facilitating a skill game is a legitimate commercial activity, distinct from running a gambling den.

1.1.3 Institutionalising Skill: *Dr K.R. Lakshmanan v. State of Tamil Nadu* (1996)

The jurisprudence took a significant leap forward in 1996 with *Dr K.R. Lakshmanan v. State of Tamil Nadu*.¹⁹⁵⁴ This case concerned the State of Tamil Nadu's attempt to acquire the Madras Race Club and to effectively ban horse racing, on the ground that betting on horses constituted gambling and could therefore be prohibited entirely.

The Supreme Court struck down the *Madras Race Club (Acquisition and Transfer of Undertakings) Act, 1986*, as unconstitutional,

¹⁹⁵⁰ R.M.D. Chamarbaugwala v. Union of India, AIR 1957 SC 628, s 4-5.
¹⁹⁵¹ State of Andhra Pradesh v. K. Satyanarayana, AIR 1968 SC 825.

¹⁹⁵² Id. at s 12.

¹⁹⁵³ Id. at s 5.

¹⁹⁵⁴ Dr. K.R. Lakshmanan v. State of Tamil Nadu, (1996) 2 SCC 226.

finding it violative of Article 14 (Equality) and Article 19(1)(g). The Court engaged in a detailed empirical analysis of horse racing, concluding that it is a "game of skill." The judgment emphasised that the outcome of a horse race depends on objective, analyzable factors:

- The pedigree and training of the horse.
- The competence and strategy of the jockey.
- The fitness and form of the animal.
- The punter's ability to assess these variables based on public data.¹⁹⁵⁵

Key Holding: The Court explicitly stated that the terms "gaming" or "gambling" in the relevant police and gaming acts must be interpreted to mean wagering or betting on games of *chance*. Since horse racing is a game of *skill*, wagering on it does not constitute "gambling" in the legal sense.¹⁹⁵⁶ This judgment effectively legalised horse betting across India (subject to state-specific venue regulations) and cemented the principle that betting on a game of skill is fundamentally distinct from gambling on a game of chance.

The "Inconsistency" Controversy:

While Lakshmanan liberated horse racing, it created a stark inconsistency in Indian law regarding other sports. If analysing the "form of the horse" and "skill of the jockey" makes betting a game of skill, critics and petitioners in subsequent cases (like Geeta Rani) have argued that analysing the "form of a batsman" or "pitch conditions" in cricket should logically enjoy the same status. However, the courts have historically treated cricket betting as "gambling," creating a dichotomy where betting on animals is "skill" but betting on human athletes is "chance", a contradiction that remains unresolved.¹⁹⁵⁷

1.2 The Digital Frontier: Fantasy Sports and the Judicial Consensus

The transition from physical racecourses to smartphone screens in the 2010s necessitated a re-evaluation of the "skill" criteria. The emergence of Daily Fantasy Sports (DFS) presented a novel challenge to the judiciary: was the act of selecting a virtual team based on real-world performance a game of skill, or merely a sophisticated, digitised form of betting?

1.2.1 The Varun Gumber Litmus Test (2017)

The first judicial validation for the modern online gaming industry came from the High Court of Punjab & Haryana in *Varun Gumber v. Union Territory of Chandigarh* (2017).¹⁹⁵⁸ The petitioner, Varun Gumber, having lost approximately ₹50,000 on the fantasy sports platform Dream11, filed a writ petition alleging that the activity constituted illegal gambling under the *Public Gambling Act, 1867*. He argued that the game was purely a matter of chance and that the company was operating an illegal gambling operation.

The High Court dismissed the petition, applying the *Lakshmanan* and *Satyanarayana* precedents to the digital format. The Court analysed the specific mechanics of the fantasy game and found it to be a game of skill based on the following structural constraints:

1. **Selection Strategy:** Users were required to select a team within a limited budget (virtual credit points), forcing them to make strategic trade-offs rather than simply picking all the best players.¹⁹⁵⁹
2. **Diverse Composition:** Users could not select players from a single real-world team; the rules mandated mixing players from both competing squads, requiring a broader knowledge of the sport.

¹⁹⁵⁵ *Id.* at s 20-22.

¹⁹⁵⁶ *Id.* at s 34.

¹⁹⁵⁷ Tanisha Khanna *et al.*, "India Law and Practice," in *Gaming Law 2024* (Chambers and Partners, 2024), available at: https://www.nishithdesai.com/fileadmin/user_upload/pdfs/research_Papers/Chambers_Gaming_Law_India_2024.pdf.

¹⁹⁵⁸ *Varun Gumber v. Union Territory of Chandigarh*, 2017 Cri LJ 3827 (P&H).

¹⁹⁵⁹ *Id.* at s 19.

3. Adherence to Real-World Performance:

The user's success depended entirely on the actual performance of the selected athletes, requiring the user to assess player form, pitch conditions, and team statistics.¹⁹⁶⁰

The Court ruled that the "element of skill predominantly affects the outcome of matches." Therefore, the activity was exempt from the penal provisions of the *Public Gambling Act*, which only applies to games of chance.

Supreme Court Validation: Crucially, the petitioner appealed the decision to the Supreme Court by filing a Special Leave Petition (SLP). On **September 15, 2017**, the Supreme Court dismissed the SLP (*Varun Gumber v. Union Territory of Chandigarh*).¹⁹⁶¹ While a dismissal of an SLP *in limine* (at the threshold) does not always constitute a binding declaration of law under Article 141, the industry interpreted this dismissal as a tacit approval of the High Court's reasoning. This "Supreme Court seal of approval" became the foundation on which the entire Indian fantasy sports industry, now valued in the billions of dollars, was built.¹⁹⁶²

1.2.2 The Consensus Across High Courts

Following *Varun Gumber*, multiple High Courts reinforced this position, creating what legal scholars term a "jurisprudence of consensus" regarding fantasy sports:

- **Bombay High Court (*Gurdeep Singh Sachar v. Union of India, 2019*):** The petitioner challenged the legality of Dream11 and also alleged evasion of Goods and Services Tax (GST). The Court reiterated that fantasy sports are games of skill. Furthermore, it ruled on the tax aspect, stating that since the activity is not "gambling," it does not attract the punitive 28% GST rate applicable to

betting, but rather the standard 18% rate on the platform fee.¹⁹⁶³

- **Rajasthan High Court:** In separate proceedings, the Rajasthan High Court upheld the same principle, citing the dismissal of the SLP in *Varun Gumber* as a binding precedent that the issue was *res integra* (no longer an untouched legal point).¹⁹⁶⁴

These judgments collectively created a protective shield for the "Real Money Gaming" (RMG) industry, encouraging a massive influx of foreign investment and the proliferation of platforms offering fantasy cricket, football, and kabaddi. The judiciary effectively modernised the 1957 *Chamarbaugwala* doctrine for the internet age.

1.3 Challenges to Online Betting Bans: State Paternalism vs. Judicial Review

Despite the judicial recognition of skill games, the rapid spread of online gaming apps into Tier-2 and Tier-3 cities triggered a socio-political backlash. Reports of youth addiction, financial ruin, and suicides due to gaming debts led several state governments, including Telangana, Andhra Pradesh, Tamil Nadu, and Karnataka, to enact legislation between 2020 and 2023 banning all forms of online gaming involving money, irrespective of the skill element. This set the stage for a constitutional showdown between the *State's police powers* and the *fundamental rights* of the operators.

1.3.1 *Junglee Games v. State of Tamil Nadu (2021): The Proportionality Test*

The State of Tamil Nadu amended the *Tamil Nadu Gaming Act, 1930*, in 2021 (via Act 1 of 2021) to prohibit all online games played for stakes, citing public order and public health considerations. This was a direct challenge to the "skill game" exemption. The amendment was challenged by major operators in *Junglee*

¹⁹⁶⁰ *Id.* at s 22.

¹⁹⁶¹ *Varun Gumber v. Union Territory of Chandigarh*, Special Leave to Appeal (C) No. 27511/2017 (Supreme Court of India, Sept. 15, 2017).

¹⁹⁶² PWC, "Supreme Court upholds that online fantasy sports are games of skill" *Tax Insights* (August 7, 2021).

¹⁹⁶³ *Gurdeep Singh Sachar v. Union of India*, 2019 SCC OnLine Bom 13059.

¹⁹⁶⁴ *Ravindra Singh Chaudhary v. Union of India*, 2020 SCC OnLine Raj 2642; *see also Chandresh Sankhla v. State of Rajasthan*, 2020 SCC OnLine Raj 264.

Games India Pvt. Ltd. v. The State of Tamil Nadu.¹⁹⁶⁵

The Madras High Court delivered a scathing judgment striking down the amendment as *ultra vires* the Constitution. The judgment is a landmark for its robust application of the **Doctrine of Proportionality**. The Court held:

1. **Manifest Arbitrariness:** The State failed to distinguish between games of skill (like Rummy/Poker) and games of chance, lumping them together under a blanket ban. By treating distinct categories as identical, the legislation violated the equality clause of Article 14.¹⁹⁶⁶
2. **Excessiveness:** A total ban was a disproportionate response to the state's concerns. The Court suggested that regulations such as age limits, spending caps, or KYC norms would be the "least intrusive" measure compared with total prohibition. The ban was likened to "burning the house down to roast a pig."¹⁹⁶⁷
3. **Critique of Paternalism:** The Court criticised the "over-paternalistic" stance of the State. It noted: "It is not the intention of the lawmaker that is determinative, but whether the effect or operation of the law infringes fundamental rights."¹⁹⁶⁸ The Court affirmed that citizens have a right to indulge in skill-based entertainment, and businesses have a right to provide it under Article 19(1)(g).

Aftermath: Following this defeat, the Tamil Nadu government constituted a committee (Justice Chandru Committee) and enacted a new law, the *Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022*, which attempted to ban online Rummy

and Poker specifically by labelling them as games of chance *when played online*. This second Act was also challenged and partially read down by the Madras High Court in 2023, further continuing the legal stalemate.¹⁹⁶⁹

1.3.2 *Head Digital Works v. State of Kerala (2021): Executive Overreach*

In a parallel development, the Kerala government attempted to ban online Rummy played for stakes by issuing a notification under Section 14A of the *Kerala Gaming Act, 1960*. In *Head Digital Works Pvt. Ltd. v. State of Kerala*,¹⁹⁷⁰ The Kerala High Court quashed the notification.

The Court's reasoning focused on **Executive Overreach**. It held that the government could not use subordinate legislation (a notification) to withdraw a statutory exemption for skill games that was grounded in Supreme Court precedent (*Satyanarayana*). The Court reaffirmed that playing for stakes does not convert a game of skill into a game of chance. Crucially, the judgment emphasised that "moral arguments" regarding the perceived social evil of addiction cannot supersede the legal classification of the game.¹⁹⁷¹ The State cannot simply declare a skill game to be gambling by fiat; it must respect the jurisprudential tests established by the Supreme Court.

1.3.3 *Gameskraft Technologies v. DGGSTI (2023): The Tax Definition Battle*

The conflict extended beyond police powers to taxation in *Gameskraft Technologies Pvt. Ltd. v. Directorate General of Goods and Services Tax Intelligence (2023)*.¹⁹⁷² The GST department issued a show-cause notice to Gameskraft, a central Rummy platform, demanding approximately **₹21,000 crores** in back taxes. The department's logic was that online gaming for stakes constituted "betting and gambling," which is taxed at the highest rate of 28% on the

¹⁹⁶⁵ *Junglee Games India Pvt. Ltd. v. State of Tamil Nadu*, 2021 SCC OnLine Mad 2762.

¹⁹⁶⁶ *Id.* at s 12.

¹⁹⁶⁷ *Id.* at s 105.

¹⁹⁶⁸ *Id.* at s 89.

¹⁹⁶⁹ *All India Gaming Federation v. State of Tamil Nadu*, 2023 SCC OnLine Mad 6973.

¹⁹⁷⁰ *Head Digital Works Pvt. Ltd. v. State of Kerala*, 2021 SCC OnLine Ker 3592.

¹⁹⁷¹ *Id.* at s 45.

¹⁹⁷² *Gameskraft Technologies Pvt. Ltd. v. Directorate General of Goods and Services Tax Intelligence*, 2023 SCC OnLine Kar 18.

entire face value of the bets, rather than only the platform fee.

The Karnataka High Court quashed the notice in a detailed judgment. It ruled that the terms "betting" and "gambling" in the CGST Act must be interpreted consistently with the constitutional definitions provided in *Chamarbaugwala* and *Lakshmanan*. Since Rummy is judicially recognised as a game of skill, it cannot be taxed as "gambling."¹⁹⁷³ The Court termed the department's action "manifest arbitrariness," noting that taxation cannot be used to penalise a constitutionally protected activity.¹⁹⁷⁴

Status: The Revenue Department appealed this decision to the Supreme Court. In late 2023, the Supreme Court stayed the Karnataka High Court's order, reviving the tax demand pending a final hearing.¹⁹⁷⁵ This has left the industry with a massive contingent liability, creating severe financial uncertainty.

1.4 The Central Intervention: PROGA 2025 and Constitutional Challenges

The fragmented state-level responses, with some states banning gaming and courts overturning those bans, and the "ping-pong" of litigation, led the Union Government to intervene decisively. The result was the enactment of the **Promotion and Regulation of Online Gaming Act (PROGA), 2025**, passed by Parliament in August 2025.¹⁹⁷⁶ This central legislation marked a paradigm shift from judicial determination to legislative codification, sparking a constitutional crisis that is set to be resolved by the Supreme Court in 2026.

1.4.1 Key Provisions of PROGA 2025

PROGA 2025 seeks to establish a uniform national framework that effectively supersedes the patchwork of state laws. Its salient features include:

1. **Concept of "Online Money Game" (OMG):** The Act introduces a new statutory category: the "Online Money Game." It is defined as any online game in which users pay money or other stakes with the expectation of winning money or other benefits.¹⁹⁷⁷
2. **Blanket Prohibition:** Crucially, the Act prohibits the offering of any "Online Money Game" *irrespective* of whether the game is based on skill or chance.¹⁹⁷⁸ This provision effectively nullifies the *Chamarbaugwala* and *Varun Gumber* distinctions for the digital medium.
3. **Regulatory Authority:** The Act establishes the **Online Gaming Authority of India**, empowered to oversee the sector, register permissible games (like Esports and "Online Social Games"), and enforce the ban on OMGs.¹⁹⁷⁹
4. **Penalties:** The Act imposes severe criminal penalties. Offering an online money game is punishable with imprisonment for up to **three years** and fines up to **₹1 crore**.¹⁹⁸⁰
5. **Transitional Provisions:** The Act allows for 180 days for the repayment of user funds collected before the enforcement of the Act, acknowledging the massive liquidity held by these platforms.¹⁹⁸¹

1.4.2 The Constitutional Challenge: Legislative Competence and Fundamental Rights

The enactment of PROGA 2025 prompted immediate and urgent litigation by the industry. Major operators such as Head Digital Works (A23), Gameskraft, and the All India Gaming Federation filed writ petitions challenging the Act's constitutionality. The legal battle is fought on two primary grounds:

¹⁹⁷³ *Id.* at s 10.

¹⁹⁷⁴ *Id.* at s 15.

¹⁹⁷⁵ *Directorate General of Goods and Services Tax Intelligence v. Gameskraft Technologies Pvt. Ltd.*, Special Leave to Appeal (C) Nos. 19366-19369/2023 (Supreme Court, Sept. 6, 2023).

¹⁹⁷⁶ The Promotion and Regulation of Online Gaming Act, 2025, No. 110 of 2025, Acts of Parliament, 2025 (India).

¹⁹⁷⁷ *Id.* at Section 2(o).

¹⁹⁷⁸ *Id.* at Section 4.

¹⁹⁷⁹ *Id.* at Section 10.

¹⁹⁸⁰ *Id.* at Section 23.

¹⁹⁸¹ *Id.* at Section 31.

1. Legislative Competence (Federal Structure):

- The Petitioner's Argument:** The Petitioners argue that under the Seventh Schedule of the Constitution, "Betting and Gambling" is a subject reserved exclusively for States (Entry 34, List II). Therefore, the Parliament lacks the jurisdiction to enact a law banning or regulating it. They contend that the Union cannot usurp State powers by disguising the law as a regulation of "Interstate Trade" (Entry 42, List I) or "Telecom" (Entry 31, List I). By banning games of skill (which, under the Constitution, states like Tamil Nadu are constitutionally barred from banning), the Centre is encroaching on the state's domain.¹⁹⁸²
- The Union's Defence ("Pith and Substance"):** The Union Government relies on the **Doctrine of Pith and Substance**. They argue that the "true nature" of the law is the regulation of the *digital medium and internet platforms*, which falls squarely under the Union List (Entry 31: Posts and Telegraphs; Telephones, Wireless, Broadcasting). They contend that the cross-border, ubiquitous nature of the internet renders state-level regulation ineffective and necessitates a central law.¹⁹⁸³

2. Violation of Fundamental Rights (Article 19(1)(g)):

- The industry argues that the blanket ban on skill-based money games violates the fundamental right to practice a profession. Since the Supreme Court has held (in *Chamarbaugwala* and *Satyanarayana*) that skill games are legitimate trade, a legislative ban that criminalises this trade is "manifestly arbitrary" and unreasonable.¹⁹⁸⁴ They

argue that the distinction between "online" and "offline" skill games is artificial; if Rummy is a skill when played in a club, it remains a skill when played on an app.

1.4.3 Pending Supreme Court Review (January 2026)

The legal standoff has paralysed the industry. Operators like A23 and Dream11 have warned of a "severe shutdown," with payment gateways freezing transactions and banking support suspended due to the new law.¹⁹⁸⁵

Recognising the gravity of the constitutional questions, the Supreme Court has consolidated all challenges to PROGA 2025. In late 2025, a bench led by **Chief Justice Surya Kant** referred the matter to a larger **three-judge bench**, noting that the case involves substantial questions regarding the "vires of a statute" and the federal division of powers.¹⁹⁸⁶

- Current Status:** The hearing is scheduled for **January 21, 2026**.¹⁹⁸⁷
- Implication:** The Court refused an early hearing despite the industry's plea of imminent collapse, stating, "Everything is shut down... We are listed in January. That is what I am promising."¹⁹⁸⁸ This delay means the industry remains in a state of suspended animation, bleeding revenue while awaiting a verdict that will determine its survival.

1.5 The Unsettled Question: Sports Betting and Geeta Rani

While the focus has primarily been on fantasy sports and card games, the status of direct sports betting remains a critical, albeit unresolved, legal frontier. The case of *Geeta Rani v. Union of India* represents the industry's

¹⁹⁸² *Head Digital Works Pvt. Ltd. v. Union of India*, W.P.(C) No. 1245 of 2025 (Supreme Court of India).

¹⁹⁸³ Paridhi Aggarwal, "Unpacking The PROGA, 2025: Skill, Chance And The Constitution," 7 *International Journal of Law and Legal Research* 5 (2025)

¹⁹⁸⁴ *Head Digital Works*, *supra* note 35.

¹⁹⁸⁵ Storyboard18, "Five months on, PROGA remains unnotified; SC to hear petitions challenging gaming law on Jan 21" (January 2026), available at: <https://www.storyboard18.com/gaming-news/five-months-on-proga-remains-unnotified-sc-to-hear-petitions-challenging-gaming-law-on-jan-21-87890.htm>.

¹⁹⁸⁶ *Id.*

¹⁹⁸⁷ "India's Supreme Court defers online gaming law challenge to January," *AGBrief* (Dec 11, 2025).

¹⁹⁸⁸ *Id.*

attempt to extend the *Lakshmanan* (horse racing) logic to cricket and other major sports.

1.5.1 The Argument for Skill in Sports Betting

The petitioners in *Geeta Rani* argue that the judicial logic used to legalise horse betting is directly applicable to sports betting. Their contention is syllogistic:

1. **Major Premise:** The Supreme Court held in *Lakshmanan* that betting on an event where the outcome depends on objective factors (training, form, skill) is a game of skill.
2. **Minor Premise:** Cricket matches depend on objective factors such as player statistics, pitch conditions, weather, and team strategy, arguably more so than a horse race.
3. **Conclusion:** Therefore, betting on cricket should be classified as a game of skill and protected under Article 19(1)(g).¹⁹⁸⁹

The petition also draws on the Law Commission of India's 2018 report (*Legal Framework: Gambling and Sports Betting*), which recommended regulating rather than banning betting to curb the black market and ensure sports integrity.¹⁹⁹⁰

1.5.2 Judicial Status and the "Abuse of Process"

Despite the argument's logical appeal, the case has faced significant procedural hurdles. The Madras High Court, in a related writ petition by the same petitioner (*Geeta Rani v. Union of India, 2019*), strongly admonished the litigant for "forum shopping." The Court noted that, since the Supreme Court was already seized of similar matters, filing a parallel writ in the High Court constituted an "abuse of process of law" and was against judicial propriety.¹⁹⁹¹

Current Outlook: As of January 2026, the *Geeta Rani* case remains pending before the Supreme

Court.¹⁹⁹² However, the enactment of PROGA 2025 has complicated the landscape. If PROGA is upheld, the *Geeta Rani* argument becomes moot for *online* betting, as PROGA bans all "Online Money Games" regardless of skill. However, if PROGA is struck down, the *Geeta Rani* case could become the vehicle for legalising sports betting in India. A hearing in early 2026 issued a notice to the government regarding related PILs, but a final verdict has yet to be delivered.¹⁹⁹³

1.6 Implementation Issues Post-Judgments and the Shadow Market

The divergence between judicial/legislative intent and on-ground reality has created significant implementation challenges. The prohibitionist approach, whether pursued by States earlier or by PROGA now, has inadvertently fueled a massive "shadow economy" that is harder to police and generates no tax revenue.

1.6.1 The "Vacuum Effect" and Offshore Betting

A comprehensive 2025 report by the **Digital India Foundation (DIF)** highlights the catastrophic failure of enforcement. The report notes that while legitimate Indian operators (who pay taxes and follow KYC norms) have been shut down or restricted by PROGA, Indian users have migrated en masse to illegal offshore betting platforms.¹⁹⁹⁴

Key Findings of the DIF Report:

- **Scale:** The report estimates the illegal betting and gambling market in India at over **\$100 billion (approx. ₹8.3 lakh crore)** annually.¹⁹⁹⁵
- **Traffic:** The study recorded **1.6 billion visits** to just four major illegal platforms (Parimatch, 1xBet, Stake, Battery Bet) in three months (Oct-Dec 2024).¹⁹⁹⁶

¹⁹⁸⁹ *Geeta Rani v. Union of India*, W.P.(C) No. 287 of 2017 (Supreme Court of India).

¹⁹⁹⁰ Law Commission of India, *Legal Framework: Gambling and Sports Betting including Cricket in India* (Report No. 276, 2018).

¹⁹⁹¹ *Geeta Rani v. Union of India*, W.P.(C) No. 34053 of 2018 (Madras High Court, April 4, 2019).

¹⁹⁹² *Geeta Rani v. Union of India*, W.P.(C) No. 1245 of 2025 (Supreme Court of India, Status Report Jan 2026).

¹⁹⁹³ *Id.*

¹⁹⁹⁴ Digital India Foundation, "Illegal Gambling and Betting Market in India: The Scale and Enablers" (March 2025).

¹⁹⁹⁵ *Id.* at 4.

¹⁹⁹⁶ *Id.* at 6.

- **Evasion:** The report identifies "URL switching" or "mirror sites" as the primary evasion technique. When the Ministry of Electronics and Information Technology (MeitY) blocks a domain (e.g., betting-site.com), the operator instantly launches betting-site-01.com. The report found that Parimatch alone operated hundreds of mirror domains to circumvent regulatory takedowns.¹⁹⁹⁷

5.6.2 The "Esports Masquerade" and CASC PIL

A new and dangerous trend identified in late 2025 is the "Esports Masquerade." A Public Interest Litigation (PIL) filed by the **Centre for Accountability and Systemic Change (CASC)** alleges that illegal betting apps are disguising themselves as "Esports" or "Social Games" categories that are permitted and promoted under PROGA 2025 to evade the ban.¹⁹⁹⁸

The PIL contends that over **2,000 betting platforms** are operating freely by misclassifying their content. These apps often feature "spin the wheel" or "predict the winner" mechanics that are essentially gambling but are marketed as "social gaming." The Supreme Court took serious cognisance of this issue in November 2025, issuing a notice to the Union Government and linking the PIL to the broader PROGA challenge.¹⁹⁹⁹

5.6.3 The "Chess Controversy": When Skill Becomes Crime

The broad sweep of PROGA has also led to implementation absurdities, as highlighted by the "Chess Controversy." During a Supreme Court hearing, the bench questioned a professional chess player whether earning a livelihood through chess tournaments (played for entry fees and prizes) constituted "betting or gambling" under the new strict definitions.²⁰⁰⁰

This conflation of high-level intellectual sport with gambling demonstrates the perils of the "Online Money Game" definition. Critics argue that by banning all monetary outcomes, PROGA criminalises professional excellence in fields such as chess and Esports, which the government paradoxically claims to support.²⁰⁰¹ This incident underscores the "manifest arbitrariness" argument: a law intended to stop addiction is now threatening the livelihoods of professional athletes.

1.7 Conclusion

Research paper demonstrates that the Indian judiciary has consistently acted as a bulwark against executive overreach, establishing a protective jurisprudence for skill-based gaming that spans from the *Chamarbaugwala* judgment of 1957 to the *Junglee Games* verdict of 2021. The courts have repeatedly affirmed that the "preponderance of skill" is the constitutionally determining factor, protecting legitimate businesses from being painted with the broad brush of "gambling."

However, the enactment of PROGA 2025 represents a legislative "reset" that attempts to bypass decades of case law by rendering the skill-chance distinction irrelevant for monetary games. This has precipitated a constitutional crisis of significant proportions. The legal landscape is currently defined by extreme volatility. While the High Courts have upheld the industry's rights, the Central Government's legislative override challenges the very federal structure of the Constitution.

The impending Supreme Court hearings in January 2026 will be a watershed moment. They will not only decide the economic fate of a multi-billion-dollar industry. Still, they will also set a crucial precedent regarding the Parliament's power to legislate on State subjects in the digital age. Meanwhile, the thriving "shadow economy" of offshore betting, immune to Indian law and growing at an alarming rate, serves as a stark reminder that,

¹⁹⁹⁷ *Id.* at 12

¹⁹⁹⁸ *Centre for Accountability and Systemic Change (CASC) v. Union of India*, W.P.(C) No. 1008 of 2025 (Supreme Court of India).

¹⁹⁹⁹ "SC to hear PIL seeking nationwide ban on online gambling masquerading as esports, social games," *The Hindu* (Oct 16, 2025).

²⁰⁰⁰ "When Skill Becomes Crime: How PROGA Criminalises Professional Excellence," *Daily Pioneer* (Dec 2025).

²⁰⁰¹ *Id.*

in the borderless digital domain, legislative prohibition without technological enforceability is often a futile and perhaps counterproductive exercise.

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