REGULATING ONLINE GAMBLING IN INDIA: FROM THE SKILL–CHANCE BINARY TO RISK-BASED DIGITAL GOVERNANCE

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ABSTRACT

The regulation of gambling in India has historically rested upon two interrelated assumptions: first, that betting and gambling fall principally within the legislative domain of the States; and secondly, that a legally meaningful distinction can be drawn between games of skill and games of chance. The migration of gambling and gaming into digital environments has destabilised both assumptions. Online platforms operate across territorial boundaries, integrate gaming with digital payments and algorithmic advertising, and enable continuous participation without the physical infrastructure contemplated by nineteenth-century gambling legislation.

The Supreme Court's decision in *State of Tamil Nadu v Junglee Games India Pvt Ltd*, 2026 INSC 594, marks a significant constitutional development. The Court held that Entry 34 of List II—"betting and gambling"—is not confined to betting on games of chance and that staking money on an uncertain outcome may constitute betting even where the underlying game predominantly involves skill. The Court further upheld challenged provisions of Tamil Nadu and Karnataka legislation regulating or prohibiting online gaming involving stakes. This decision fundamentally alters the jurisprudential position that had previously placed games of skill outside the principal field of gambling regulation.

Almost simultaneously, Parliament enacted the Promotion and Regulation of Online Gaming Act 2025 ('PROG Act'), creating a national framework and prohibiting online money games irrespective of whether they are based on skill, chance or both. The Promotion and Regulation of Online Gaming Rules 2026 subsequently operationalized the statutory framework and provided for the Online Gaming Authority of India.

This article argues that these developments resolve the traditional skill–chance controversy but do not, by themselves, produce a coherent regulatory philosophy. The central problem has shifted from classification of games to classification of risk. A prohibition that treats all online money games alike may be administratively clear but is not necessarily the most proportionate or technologically sustainable method of regulating the digital gaming ecosystem. Comparative experience from the United Kingdom, Australia and the United States demonstrates that online gambling can be governed through materially different models: licensing and harm reduction, targeted prohibition and enforcement, or federal–state pluralism respectively.

The article proposes a risk-based Indian model founded on differentiated regulatory tiers, prohibition of high-risk and exploitative money gaming, robust age and identity verification, responsible-gaming controls, payment surveillance, algorithmic accountability, advertising restrictions, independent grievance redressed and coordinated Centre–State enforcement. It concludes that India's next stage of gambling regulation should move beyond the binary of "skill versus chance" towards a constitutional model of risk-proportionate digital governance.

Keywords: Online gambling; betting; digital governance; consumer protection; responsible online gaming.

I. INTRODUCTION

The legal regulation of gambling has historically been an exercise in controlling an activity that is geographically identifiable, physically observable and comparatively difficult to scale. The contemporary online environment has fundamentally altered those characteristics.

A person may now access a gaming platform through a mobile or a tab, transfer funds through a digital payment systems, participates in a contest against thousands of geographically dispersed users, receive algorithmically generated offers and withdraw winnings without ever entering a physical gaming establishment. The operator may be incorporated in one jurisdiction, use cloud infrastructure in another, employ payment intermediaries in several jurisdictions and market its services to Indian consumers from outside India. The resulting legal problem is therefore considerably more complex than the conventional question whether a particular activity constitutes "gambling".

Indian law historically approached gambling through a combination of colonial-era legislation, State statutes and judicially developed distinctions between games of skill and games of chance. The Public Gambling Act 1867, together with State adaptations and later State legislation, formed the principal statutory background. The constitutional allocation of legislative competence placed "betting and gambling" in Entry 34 of List II of the Seventh Schedule, reinforcing the State-centred character of gambling regulation.

Judicial doctrine subsequently developed an important distinction between games in which skill predominates and those in which chance predominates. In *State of Andhra Pradesh v Satyanarayana*, [1] *RMD Chamarbaugwala v Union of India*[2] and *Dr KR Lakshmanan v State of Tamil Nadu*, [3] the Supreme Court recognised the legal significance of skill in determining whether an activity could be treated as gambling. Games of skill were consequently afforded substantially different treatment from games of chance.

That jurisprudence became increasingly difficult to apply once gaming migrated online. The digital form of a game could involve monetary entry fees, prizes, algorithmic matching, bonuses, promotional credits, repeated play, dynamic odds and behavioural targeting. The legal question ceased to be merely whether skill predominated in the underlying game. It increasingly became whether the economic architecture surrounding the game transformed participation into a form of wagering capable of causing the harms traditionally associated with gambling.

The constitutional dispute reached a significant stage in litigation concerning Tamil Nadu and Karnataka legislation. In *Junglee Games India Pvt Ltd v State of Tamil Nadu*, the Madras High Court had previously held that games predominantly involving skill could not simply be prohibited by invoking Entry 34 and Article 19(1)(g). [4] The Karnataka High Court adopted a broadly similar approach in proceedings concerning the Karnataka Police Act amendments.

The Supreme Court's 2026 decision radically altered that position. In *State of Tamil Nadu v Junglee Games India Pvt Ltd*, [5] a two-judge Bench comprising Justices JB Pardiwala and R Mahadevan held that Entry 34 is sufficiently broad to encompass betting on games of skill. The Court distinguished earlier decisions dealing with games of skill because those cases had not directly determined the constitutional meaning of “betting” in Entry 34. More significantly, the Court treated the introduction of monetary stakes as legally significant: a skill-based activity without stakes may constitute a lawful business, but the introduction of stakes creates an element of betting capable of falling within the State's legislative competence. [6]

The judgment was followed, and in some respects complemented, by Parliament's enactment of the Promotion and Regulation of Online Gaming Act 2025. The Act takes an even more categorical position. It defines an “online money game” without regard to whether the outcome depends upon skill, chance or both, and prohibits the offering, operation, facilitation, advertisement and promotion of such games. [7] It also addresses associated financial transactions.

The regulatory landscape has consequently undergone a fundamental transformation. The earlier question was:Is this game predominantly one of skill or chance? The post-*Junglee Games* and PROG Act question is increasingly:Does participation involve money or other stakes, and what level of regulatory risk does the resulting activity create?This article argues that the latter question provides a more useful basis for contemporary regulation, but that India has not yet fully developed the regulatory architecture necessary to implement it. The article advances three propositions.

First, the Supreme Court's interpretation of Entry 34 resolves an important constitutional ambiguity by recognising betting as an independent regulatory concept rather than merely betting upon a game of chance.

Secondly, the PROG Act successfully addresses the territorial and technological limitations of State-specific gambling legislation, but its blanket prohibition of online money games creates a new challenge: it substitutes categorical prohibition for differentiated risk regulation.

Thirdly, comparative experience demonstrates that India need not choose between unrestricted online gambling and total prohibition. A third approach—risk-based digital governance—is possible. Such a model would prohibit high-risk and exploitative activities while subjecting lower-risk digital gaming to proportionate safeguards.

II. RESEARCH OBJECTIVES AND QUESTIONS

The principal objective of this article is to critically evaluate India's emerging legal framework governing online gambling and online money gaming.

The article addresses following five questions:

1. Why did the traditional skill–chance distinction become inadequate in the digital environment?
2. What precisely did the Supreme Court decide in *State of Tamil Nadu v Junglee Games India Pvt Ltd*?
3. Does the PROG Act resolve the constitutional and regulatory difficulties created by

fragmented State legislation?

4. What lessons can India derive from the United Kingdom, Australia and the United States?

5. What regulatory architecture would best reconcile public health, consumer protection, constitutional liberty, technological innovation and financial integrity? The article employs doctrinal, comparative and policy-oriented analysis.

III. LITERATURE REVIEW AND RESEARCH GAP

A. The first generation:

The earliest legal scholarship concerning gambling in India focused primarily upon the absence of a comprehensive national statute and the continued relevance of nineteenth-century legislation to modern gambling.

The literature identified the fundamental structural difficulty created by the fact that gambling is a State subject while internet services are inherently trans-jurisdictional. Earlier scholarship therefore tended to characterise Indian gambling law as fragmented, uncertain and technologically outdated. [8]This scholarship remains relevant because the underlying federal problem has not disappeared merely because Parliament has enacted the PROG Act.

B. The second generation:

A second body of scholarship focused on the jurisprudential distinction between games of skill and games of chance. This literature examined rummy, fantasy sports, poker and related activities and generally treated *Satyanarayana*, *Lakshmanan* and subsequent High Court decisions as the doctrinal foundation for determining whether a real-money game could lawfully operate. [9]The problem with this approach is that it often treats the "game" as the principal object of legal analysis.

Digital platforms demonstrate why that assumption may be incomplete. The same underlying game can be offered through materially different economic architectures. One platform may permit recreational play without payment. Another may require repeated monetary entry, employ bonuses and target users according to their spending behaviour. The underlying rules may be identical while the regulatory risk differs dramatically.

C. The third generation:

More recent interdisciplinary literature has expanded the analysis beyond legislative competence and skill-versus-chance classification. Gambling has increasingly been examined as a public-health and consumer-protection issue, particularly because digital platforms facilitate constant accessibility and repeated participation. [10]

This literature is important because it challenges the assumption that legality should depend exclusively upon the mathematical character of a game. The social question is not merely:Is skill predominant?It is also:What does the platform incentivise, how does it monetise participation, who is exposed to it, and what mechanisms exist to prevent harm?

D. The fourth and present generation

The enactment of the PROG Act has generated a new body of commentary concerning uniform regulation, federalism and the constitutional position of online money games. [11]However, much of the emerging discussion remains focused on whether the new law is preferable to the former State-by-State model.

This article seeks to advance the debate further. The research gap is not simply the absence of another description of the PROG Act. The deeper gap concerns the normative basis upon which online gaming should be regulated after the skill–chance distinction has lost its dominant constitutional function. The article therefore proposes a shift:from game classification to risk classification.

IV. THE HISTORICAL AND CONSTITUTIONAL FOUNDATION OF GAMBLING REGULATION

A. The Public Gambling Act

The Public Gambling Act 1867 represents the historical foundation of modern Indian gambling law. Its architecture was designed around physical premises, common gaming houses and observable gambling activities. It also contained an important exception for games of mere skill. [12]

The statute therefore embodied two assumptions that became problematic in the digital age. First, gambling was treated primarily as a physical activity. Secondly, skill was treated as a meaningful basis for determining what should fall outside prohibition. Neither assumption maps neatly onto the contemporary online environment.

B. Entry 34 of List II

The constitutional framework assigns "betting and gambling" to Entry 34 of List II. This is significant because Article 246(3) ordinarily gives State legislatures exclusive power over matters in the State List, subject to the Constitution.

The historical effect was to allow States to develop different gambling policies. This produced an unusual regulatory environment. A game could be lawful in one jurisdiction and prohibited in another, despite being technologically identical. The internet exposed the territorial weakness of that model.

C. Article 19(1)(g)

The constitutional analysis was further complicated by Article 19(1)(g), which protects the freedom to practise any profession or carry on any occupation, trade or business. The Supreme Court has historically treated gambling differently from ordinary trades and businesses. Activities regarded as inherently harmful or lacking legitimate commercial protection have been treated as *res extra commercium*. This distinction became critical to online gaming because operators argued that skill-based gaming constituted a legitimate business rather than gambling. The resulting constitutional debate therefore contained two competing propositions:

1. the State possesses power to regulate betting and gambling; and
2. a lawful skill-based gaming business may fall within Article 19(1)(g).

The 2026 *Junglee Games* decision substantially restructured that relationship.

V. THE SKILL–CHANCE DOCTRINE

A. *RMD Chamarbaugwala*

The *Chamarbaugwala* decisions established an important constitutional distinction between activities involving gambling and activities possessing genuine skill or commercial character. [13]The doctrine subsequently became an important foundation for excluding games predominantly involving skill from gambling restrictions.

B. *State of Andhra Pradesh v Satyanarayana*

In *Satyanarayana*, the Supreme Court considered rummy and concluded that the game involved a substantial degree of skill. [14]The case became foundational to subsequent disputes concerning rummy.

C. *Dr KR Lakshmanan*

In *Lakshmanan*, the Court considered horse racing and reaffirmed the significance of skill in determining whether an activity constituted gambling. [15]The judgment became particularly important because it connected the skill–chance distinction with Article 19(1)(g).

D. Online expansion

As online gaming expanded, these principles were applied to digital formats. In *Junglee Games India Pvt Ltd v State of Tamil Nadu*, the Madras High Court held that the State could not impose an absolute prohibition upon online games of skill merely by characterising them as gambling. [16]The Karnataka High Court similarly scrutinised State restrictions on online games of skill. The result was a doctrinal tension:The Constitution gave States authority over betting and gambling, but judicial precedent appeared to place skill-based games outside that field. The Supreme Court's 2026 judgment directly addressed that tension.

VI. *STATE OF TAMIL NADU v JUNGLEE GAMES INDIA PVT LTD*:

A. Factual and legislative background

The appeals arose from challenges to Tamil Nadu and Karnataka legislation regulating online gaming and gambling. Tamil Nadu had enacted amendments that extended its regulatory framework to online gaming and, in substance, sought to prohibit wagering or betting on online games including games of skill. The Madras High Court struck down significant provisions of the 2021 legislation and subsequently read down provisions of the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act 2022/2023 insofar as they treated rummy and poker as games of chance. [17]The Karnataka High Court likewise invalidated provisions of the Karnataka Police Act amendments. The States appealed. The Supreme Court's judgment therefore presented a direct constitutional question: does Entry 34 permit a State to regulate or prohibit staking on a game of skill?

B. "Betting" is not constitutionally dependent upon "gambling"

The most important feature of the judgment is the Court's rejection of the proposition that "betting and gambling" must be read as a single conjunctive concept in which betting becomes constitutionally relevant only when attached to gambling on games of chance. The Court treated "betting" as an independent component of Entry 34. [18]This interpretation is doctrinally significant.

C. Stakes transform the legal character of the activity

The Court drew an important distinction between a game of skill played without stakes and the same activity when monetary stakes are introduced. A game of skill without staking may constitute a legitimate commercial activity. Once a participant stakes money on an uncertain outcome, however, the staking element becomes "betting" within Entry 34. [19]This is perhaps the most consequential doctrinal development in the judgment. It does not deny that skill remains skill. Instead, it separates: the underlying game; and the economic act of staking upon its outcome. This is conceptually more sophisticated than simply declaring rummy or poker to be games of chance.

D. The judgment does not erase the skill–chance distinction

It would be inaccurate to conclude that *Junglee Games* simply abolishes the skill–chance distinction. The Court continues to recognise that a genuine skill-based game played without monetary stakes is materially different from wagering. The judgment therefore relocates the importance of skill. Skill remains relevant to determining the character of a non-staking game. But skill no longer immunises a monetary staking arrangement from State regulation.

E. Article 19(1)(g)

The Court also addressed the argument that online skill gaming constituted protected commercial activity. Its reasoning places substantial weight on the nature of staking. Where the activity becomes betting and gambling, it may be treated as *res extra commercium*, thereby limiting reliance upon Article 19(1)(g). [20]This significantly strengthens State regulatory authority. It also weakens the earlier argument that a skill-based online gaming business automatically receives constitutional protection merely because skill predominates.

F. Public order and public health

The Court considered the social consequences of online money gaming, including addiction, financial distress and related harms. It accepted the relevance of empirical material, including the Justice K Chandru Committee's findings relied upon by Tamil Nadu.[21] This is important from a constitutional perspective. The judgment does not rely solely upon abstract moral disapproval of gambling. It accepts evidence concerning:

- addiction;
- financial losses;
- social disruption;
- youth vulnerability;
- psychological harm; and
- associated public-order concerns.

G. Article 14

The Court also rejected the argument that the challenged provisions were manifestly arbitrary or discriminatory. The existence of empirical material supporting restrictions on online staking was relevant to the Court's conclusion that the legislative classification had a rational basis. [22]The implication is significant for future litigation. A State seeking to regulate digital gambling should ideally support its legislative classification through evidence rather than rely upon assumptions.

H. Outcome

The Supreme Court allowed the appeals filed by Tamil Nadu and Karnataka and set aside the relevant High Court judgments. It declared specified provisions of the Tamil Nadu and Karnataka legislation intra vires the Constitution. [23]The result is a major constitutional shift:A State is not constitutionally disabled from regulating betting merely because the underlying game predominantly involves skill. This is the central doctrinal consequence of *Junglee Games*.

VII. THE PROMOTION AND REGULATION OF ONLINE GAMING ACT 2025

A. A new legislative philosophy

The PROG Act represents a departure from the State-specific model. Its long title expressly identifies objectives including promotion of the online gaming sector, regulation of online gaming, protection of youth and vulnerable populations, prevention of financial and psychological harms, and the establishment of a uniform national framework. [24]The statute divides online gaming into distinct categories, including e-sports, online social games and online money games. This classification is itself significant. Parliament did not treat “online gaming” as synonymous with “gambling”. Instead, it recognised that digital games may serve legitimate recreational, educational and sporting functions.

B. Online money games

The Act's decisive category is the “online money game”. The definition turns on whether a person pays a fee, deposits money or other stakes with the expectation of winning money or other enrichment. Critically, the definition applies irrespective of whether the game is based on: skill, chance or both. [25]The statute therefore removes the traditional skill–chance distinction from the threshold question of whether a money game is prohibited.

C. Prohibition

The Act prohibits offering, operating, facilitating, advertising, promoting or otherwise enabling online money gaming services. [26]This is a comprehensive ecosystem approach. Rather than simply prosecuting the platform operator, the legislation seeks to disrupt the entire commercial chain.

D. Advertising

The Act prohibits advertisements promoting or inducing participation in online money games.

[27]This is important because modern gambling platforms frequently depend upon digital marketing. Influencer endorsements, celebrity advertising, social-media targeting and affiliate networks can expand the reach of gaming platforms exponentially.

E. Financial transactions

The Act also addresses financial intermediaries. Banks, financial institutions and other persons are restricted from facilitating payments relating to prohibited online money gaming. [28]This is a significant enforcement innovation. Traditional gambling law primarily attempted to prohibit the activity. Digital gambling requires regulation of the infrastructure that makes the activity commercially viable.

VIII. THE CONSTITUTIONAL POSITION

The combined effect of *Junglee Games* and the PROG Act is unusual. At the State level, *Junglee Games* confirms that States possess substantial authority to regulate betting on games of skill. At the Union level, the PROG Act establishes a nationwide prohibition on online money gaming. The two developments therefore move in the same policy direction—towards stronger control—but arise from different constitutional routes.

This raises an important federal question. If betting and gambling are within Entry 34 of List II, on what constitutional basis does Parliament regulate and prohibit online money games nationally. The answer cannot simply be that online gaming occurs on the internet. Technological form does not automatically determine legislative competence. The Union framework must therefore be understood through the legislative fields invoked by Parliament and the particular cross-border, technological and financial dimensions of online gaming.

The PROG Act's long title expressly refers to activities operating across State borders and from foreign jurisdictions, as well as the protection of financial systems and national security. [29]These characteristics provide the policy foundation for central intervention. However, constitutional analysis must distinguish policy necessity from legislative competence. A future constitutional challenge may therefore focus less upon whether online gambling is harmful and more upon whether the Union has selected a constitutionally valid legislative field for regulating it. The issue is particularly significant after *Junglee Games*, because the Supreme Court has now expressly recognised State competence under Entry 34.

The Indian constitutional structure may consequently evolve towards a form of concurrent practical regulation:States retain authority over betting and gambling as a constitutional field, while Parliament may regulate the digital infrastructure, interstate dimensions, financial systems and cross-border characteristics of online gaming through constitutionally available Union powers. Whether this coexistence will produce cooperation or renewed federal conflict remains one of the most important unanswered questions.

IX. PROPORTIONALITY AND THE CASE AGAINST UNQUALIFIED PROHIBITION

The most difficult normative question is not whether online gambling can be regulated. It clearly can. The question is whether every form of online money gaming should be prohibited in the same manner. The PROG Act adopts a bright-line approach. This offers substantial advantages. It provides clarity. It reduces classification disputes. It eliminates litigation over whether rummy, poker or fantasy sports are games of skill. It makes enforcement comparatively straightforward. But simplicity is not necessarily synonymous with proportionality. A regulatory system should ideally distinguish between different levels of harm. Consider two hypothetical platforms.

Platform A allows a user to enter a ₹10 skill contest once a month, with a transparent prize structure, strict age verification and no targeted advertising.

Platform B permits unlimited high-frequency monetary play, deploys personalised bonuses based on loss behaviour, targets vulnerable users and encourages immediate redeposit after losses.

The two activities may technically fall within the same statutory definition of an online money game. Yet their social risk is radically different. The appropriate regulatory response need not therefore be identical. A risk-based model would recognise this distinction.

X. COMPARATIVE PERSPECTIVES

A. United Kingdom: licensing and harm reduction

The United Kingdom provides the strongest example of a licensing-based model. The Gambling Act 2005 defines gambling broadly and specifically recognises remote gambling. [30]

Operators providing remote gambling to consumers in Great Britain generally require an operating licence from the Gambling Commission. [31]The system does not attempt to eliminate gambling. Instead, it seeks to regulate it. Remote operators can require specific licences for different categories of activity, including betting, casinos, betting intermediaries and gaming.[32]

This regulatory architecture has several advantages. First, the State can identify operators. Secondly, licensing creates continuous regulatory obligations. Thirdly, the regulator can impose conditions relating to consumer protection and responsible gambling. Fourthly, the licensing system permits taxation and economic oversight. Fifthly, illegal operators can be distinguished from licensed operators. The British model demonstrates that **legalisation and regulation need not mean deregulation**.

It also demonstrates the importance of regulating operators based upon their relationship with consumers rather than solely upon the formal classification of the underlying game. However, the UK model also illustrates the challenges of permissive regulation. A licensed market can normalise gambling and may generate extensive advertising and commercial incentives. The lesson for India is therefore not that the British model should simply be copied. Rather, India can borrow its institutional principle:regulate identifiable operators through enforceable conditions instead of relying exclusively upon criminal prohibition.

B. Australia: targeted prohibition and technological enforcement

Australia presents a different model. The Interactive Gambling Act 2001 prohibits specified online gambling services while permitting certain regulated activities subject to conditions. [33]The Australian Communications and Media Authority ('ACMA') has enforcement powers and actively investigates prohibited online gambling services. The Australian model is especially relevant to India because it recognises the difficulty of regulating offshore operators. The law uses concepts such as an Australian-customer link and addresses services offered through the internet. [34]

The Australian approach combines:

- prohibition of specified services;
- regulation of permitted wagering;

- advertising restrictions;
- credit restrictions;
- consumer protection;
- website blocking; and
- enforcement against offshore operators.

ACMA's recent enforcement practice illustrates the importance of technological measures. In June 2026, ACMA announced further blocking of illegal gambling and affiliate websites and reported that more than 1, 700 illegal gambling and affiliate sites had been blocked since the programme began. [35]This demonstrates that statutory prohibition becomes significantly more effective when supported by infrastructure-level enforcement. India's PROG Act similarly relies upon payment restrictions and blocking mechanisms. The Australian experience therefore supports India's movement towards ecosystem regulation, but also highlights the necessity of continuous enforcement.

C. United States: federal–state pluralism

The United States provides a fundamentally different model. Gambling regulation has historically been dominated by State law, while federal statutes address particular interstate and financial dimensions. The Wire Act, the Illegal Gambling Business Act and the Unlawful Internet Gambling Enforcement Act (‘UIGEA’) collectively create a federal layer without establishing a comprehensive federal gambling code.

The Supreme Court's decision in *Murphy v NCAA* is particularly significant for comparative federalism. The Court invalidated the Professional and Amateur Sports Protection Act insofar as it improperly prohibited States from authorising sports betting, emphasising that Congress could regulate sports gambling directly but could not simply command States not to regulate it themselves. [36]The post-*Murphy* landscape has therefore produced substantial State experimentation with sports betting.

The American model demonstrates both the advantages and disadvantages of decentralisation. Its advantage is policy experimentation. States may develop different approaches according to local preferences. Its disadvantage is fragmentation. Online operators must navigate multiple legal regimes, and users may access services across State borders. The United States experience therefore provides a warning for India:Federalism permits regulatory experimentation, but digital markets impose costs when territorial regulation and technological reality diverge.

XI. ONLINE GAMBLING AS A CONSUMER-PROTECTION PROBLEM

The traditional criminal-law approach treats the gambler principally as a participant in prohibited conduct. The traditional criminal-law approach to gambling has predominantly conceptualised the gambler as a participant in prohibited conduct and, consequently, as a potential subject of penal regulation. Such an approach becomes increasingly inadequate in the digital environment, where the individual interacting with an online gaming platform may simultaneously occupy several legally distinct positions. The user may be a participant in a gaming activity, a consumer of a digital service, a potential victim of fraud, a target of behavioural advertising, a data subject whose personal and behavioural information is collected and analysed, a debtor exposed to financial loss, or a vulnerable individual susceptible to addictive patterns of behaviour. The legal framework governing online gambling must therefore move beyond an exclusively prohibition-oriented model and incorporate principles of consumer protection and platform accountability. In particular, users should be provided with meaningful and comprehensible information concerning the economic and operational characteristics of the gaming service, including entry costs, prize structures, withdrawal conditions, platform fees, applicable bonus conditions, account suspension policies, relevant data practices and the availability of responsible-gaming mechanisms. Where the nature of the activity permits meaningful disclosure, information concerning probability, odds or the manner in which rewards are determined should likewise be made accessible to users. Such transparency would enable individuals to make more informed decisions and would reduce the information asymmetry between sophisticated digital platforms and ordinary users. Online gaming regulation should accordingly recognise that consumer protection is not ancillary to gambling regulation but constitutes an essential component of it.

XII. AGE VERIFICATION AND VULNERABLE USERS

The protection of children, young adults and other vulnerable users constitutes a particularly compelling justification for regulatory intervention in online gambling. Unlike conventional forms of physical gambling, online gambling is characterised by continuous accessibility:

participation does not require the user to travel to a casino, betting establishment or other physical location because the individual's smartphone or other connected device itself functions as the point of access. This structural feature substantially increases the possibility of repeated and unsupervised participation. A credible regulatory framework must therefore incorporate robust age-verification mechanisms rather than rely upon a simple self-declaration that a user has attained the legally prescribed age. At the same time, age verification must be reconciled with privacy and data-protection principles. The objective should not be to encourage unrestricted collection and indefinite retention of identity documents, but to develop privacy-preserving mechanisms through which eligibility can be established while minimising the amount of personal information retained by gaming platforms. The same principle of proportionality should extend to the protection of vulnerable adult users. Where online gaming is permitted, platforms should be required to provide meaningful mechanisms such as self-exclusion, deposit and spending limits, cooling-off periods, loss warnings, temporary account suspension and access to appropriate support services. Such safeguards would shift the regulatory emphasis from merely punishing prohibited participation towards preventing foreseeable harm before it occurs.

XIII. ALGORITHMIC GOVERNANCE

Online gambling increasingly operates through an algorithmic environment in which the user's experience is shaped not merely by the rules of the underlying game but also by automated systems controlling advertising, bonuses, recommendations, player matching, promotional timing, notifications, reward structures and user segmentation. This development creates a regulatory problem that was largely absent from traditional gambling law. Conventional gambling regulation principally focused upon the game itself, the physical premises in which it was conducted and the operator who provided it. Digital regulation must additionally scrutinise what may be described as the **architecture of persuasion surrounding the game**. The distinction is particularly important where platforms use behavioural data to identify patterns of user activity and subsequently tailor interventions designed to increase continued monetary participation. For example, if an operator identifies that a particular user repeatedly deposits additional funds after experiencing losses and automatically offers a bonus or promotional incentive at precisely that moment, the regulatory concern extends beyond the fairness of the underlying game. It becomes necessary to examine whether the platform's algorithm is deliberately exploiting behavioural vulnerability in order to encourage further expenditure. A future Indian regulatory framework should therefore incorporate meaningful standards of algorithmic accountability for high-risk gaming operators. Such operators should maintain auditable records concerning bonus-generation mechanisms, targeting criteria, automated decision-making processes, game-result systems, fraud-detection mechanisms and responsible-gaming interventions. Regulatory oversight of online gambling must consequently expand from the regulation of games to the regulation of the technological systems that influence how, when and why users continue to participate.

XIV. PAYMENT SYSTEMS AND FINANCIAL CRIME

The financial architecture of online gambling warrants independent regulatory consideration because digital gaming platforms can intersect with a broad range of financial and cybercrimes. Depending upon the structure and operation of a platform, online gambling may facilitate or be exploited for money laundering, the use of mule accounts, identity theft, unauthorised transactions, tax evasion, fraud, offshore transfers and the layering of criminal proceeds. The restriction imposed by the Promotion and Regulation of Online Gaming Act upon financial transactions associated with prohibited online money gaming is therefore strategically significant because it recognises that effective regulation cannot focus exclusively upon the gaming platform itself. Disrupting the payment infrastructure through which users deposit and withdraw funds may substantially reduce the commercial viability of prohibited operators. Nevertheless, payment regulation must be carefully calibrated. An undifferentiated compliance system may inadvertently interfere with legitimate digital games, e-sports, social games or other lawful forms of online commerce if payment intermediaries lack reliable mechanisms for distinguishing them from prohibited money gaming. Such overblocking would impose unnecessary compliance costs upon legitimate businesses while potentially reducing the efficiency of the digital economy. A more appropriate approach would therefore involve risk-based financial monitoring supported by sufficiently precise regulatory indicators. Payment providers should be capable of distinguishing prohibited money gaming from lawful gaming, e-sports, ordinary digital commerce and transactions exhibiting characteristics of suspicious financial activity. The objective should be to make the financial system an effective line of regulatory defence without transforming it into an indiscriminate barrier to legitimate digital activity.

XV. FEDERALISM AFTER THE PROG ACT

Federalism remains one of the most difficult structural questions in India's emerging online-gambling regime. The constitutional framework places betting and gambling within the legislative competence of the States, and the Supreme Court's decision in *State of Tamil Nadu v Junglee Games India Pvt Ltd* confirms that this competence extends to staking on games of skill. At the same time, Parliament has enacted a national framework governing online money gaming, thereby introducing a significant central regulatory dimension into an area historically characterised by State legislation. The emergence of this national framework should not, however, be interpreted as automatically extinguishing the constitutional role of State governments. Rather, the future regulatory architecture should seek to develop a cooperative model in which the Union and the States exercise complementary functions according to the technological and territorial characteristics of online gaming. The Union may appropriately assume primary responsibility for matters involving cross-border digital platforms, payment systems, foreign operators, intermediary obligations, national technical standards, cybersecurity, data governance and uniform classification standards. States, meanwhile, should retain meaningful responsibilities in relation to local enforcement, public-order consequences, consumer grievances, investigation of unlawful gambling, rehabilitation and public-health programmes, and enforcement against physical or locally operated gambling activities. Such a division would recognise the inherently transnational character of digital platforms while preserving the constitutional distribution of legislative and administrative responsibilities. Cooperative federalism may therefore provide a more sustainable alternative to an adversarial Centre–State regulatory relationship.

XVI. PROPOSED REFORMS TO INDIAN LAW

A sustainable Indian regulatory framework should retain strong prohibitions where credible evidence establishes substantial harm, but such prohibitions should operate within a broader system of evidence-based regulatory assessment. Before restricting or prohibiting a particular category of online gaming, regulators should undertake regulatory-impact assessments examining prevalence, user demographics, financial risk, indicators of addictive behaviour, fraud risks, available regulatory alternatives and the practical feasibility of enforcement. Such assessments would improve the evidentiary basis of regulatory decision-making and assist courts in evaluating the rationality and proportionality of legislative classifications.

The Online Gaming Authority should also possess multidisciplinary technical expertise extending beyond conventional legal administration. Its institutional composition should incorporate expertise in law, technology, cybersecurity, behavioural science, finance, consumer protection and public health. Such expertise is necessary because classification of an online game may require an understanding of its algorithms, payment architecture, user incentives and behavioural consequences rather than merely its stated rules.

Procedural safeguards should form an equally important component of the regulatory structure. Where an online game or platform is classified as prohibited, the affected operator should ordinarily receive adequate notice, reasons for the classification and an opportunity to respond, subject to legitimate confidentiality and investigative requirements. An effective appellate mechanism should be available because classification may have substantial economic and reputational consequences.

The framework should further establish a national self-exclusion mechanism enabling users to exclude themselves from participating in regulated gaming services across participating platforms. Where regulated gaming is permitted, operators should provide deposit and loss limits, transaction alerts, cooling-off periods and appropriate withdrawal protections. Regulation should also specifically address exploitative design practices, including incentives encouraging users to chase losses, misleading "near-win" mechanisms, artificial urgency, personalised inducements following losses, hidden fees and deceptive reward structures. These practices raise concerns that are distinct from the mathematical fairness of the underlying game because they concern the behavioural architecture through which participation is encouraged.

Advertising regulation should similarly be strengthened. Celebrity and influencer endorsements should carry heightened responsibilities where they promote activities involving financial risk. Advertisements should not represent gambling as a guaranteed source of income, target minors, encourage users to recover losses through further participation, conceal material financial risks or create unrealistic expectations regarding the likelihood of winning. Finally, gaming regulation must remain subject to data-protection principles. The regulatory need to verify identity, prevent fraud or protect vulnerable users should not become a justification for indefinite retention or unrestricted exploitation of behavioural data. Effective enforcement will consequently require coordination among MeitY, financial regulators, law-enforcement agencies, State authorities and payment providers so that the regulatory response operates as an integrated system rather than as a collection of isolated institutional interventions.

XVII. TOWARDS A NEW CONSTITUTIONAL THEORY OF DIGITAL GAMBLING

The emerging jurisprudence suggests that gambling regulation in India should no longer be understood exclusively through the traditional moral or categorical conception of gambling. A more appropriate constitutional framework should account for the interaction between **risk, autonomy and externality**. Adults ordinarily possess a degree of autonomy in making recreational and economic choices, and that autonomy forms an important consideration when determining the permissible scope of State intervention. It is not, however, unlimited where individual activity generates substantial externalities affecting families, public health, financial systems or public order. The digital environment introduces an additional dimension because online platforms possess informational and algorithmic capabilities that substantially exceed those available to traditional gambling establishments. Platforms may observe user behaviour at scale, construct behavioural profiles and deploy automated interventions designed to influence continued participation. The law must therefore account for the structural asymmetry between sophisticated platforms and individual users.

Proportionality provides the connecting principle. Where demonstrable digital risk is greater, a stronger regulatory response may be justified; where the risk is lower and can reasonably be controlled through less restrictive measures, categorical prohibition may be more difficult to justify as a matter of regulatory design. The resulting principle may be stated as follows: **the intensity of regulation should correspond to the intensity of demonstrable digital risk**. Such an approach is more adaptable than the traditional skill–chance binary and more constitutionally sensitive than an indiscriminate prohibition. It permits the State to respond strongly to demonstrably harmful forms of online gambling while recognising that not every digital gaming activity produces the same degree of social or economic risk.

XVIII. CONCLUSION

India has entered a fundamentally new phase in the regulation of gambling. For decades, the central legal inquiry was whether a particular game involved skill or chance. That distinction served an important function in the development of Indian gambling jurisprudence by preventing the State from treating every competitive or recreational activity as gambling and by protecting legitimate skill-based activities from indiscriminate prohibition. The digital economy, however, has exposed the limitations of this framework. A game of skill may become a monetary staking platform; a digital platform may influence user behaviour independently of the intrinsic characteristics of the underlying game; an operator may serve Indian consumers without maintaining a physical gaming establishment in India; and payment infrastructure may become as important to enforcement as the game itself.

The Supreme Court's decision in *State of Tamil Nadu v Junglee Games India Pvt Ltd* responds to part of this transformation by distinguishing the underlying game from the act of staking. Its recognition that betting on games of skill may fall within Entry 34 of List II represents a significant shift in Indian constitutional gambling jurisprudence. The decision consequently resolves an important doctrinal problem concerning the relationship between skill-based gaming and betting, but it simultaneously raises a broader policy question: if monetary staking is sufficient to bring a skill-based activity within the regulatory field, should every form of online money gaming be prohibited in precisely the same manner?

The PROG Act adopts a categorical answer by prohibiting online money games irrespective of whether they depend upon skill, chance or both. This approach offers significant advantages in terms of clarity, uniformity and enforcement. It also addresses the ecosystem surrounding online gambling by regulating operators, advertising and financial transactions. Nevertheless, prohibition alone may not adequately address the underlying demand for online gambling and may encourage migration towards offshore or clandestine platforms that operate beyond meaningful consumer protection.

Comparative experience reinforces the need for a more nuanced approach. The British model demonstrates the advantages of licensing and continuous regulatory oversight; the Australian approach illustrates the value of targeted prohibition supported by technological enforcement; while the American experience demonstrates both the potential and the difficulties associated with federal–State regulatory pluralism. India should learn from these models without simply replicating any one of them. Its regulatory framework should combine national standards and coordinated enforcement with proportionality and differentiated risk assessment.

The appropriate regulatory framework should therefore distinguish gaming from gambling, recreation from exploitation, low-risk participation from high-risk wagering, lawful operators from criminal enterprises, and ordinary commercial activity from algorithmically engineered harmful behaviour. The principal conceptual transition should consequently be from “skill versus chance” to “risk versus regulation”. The legal inquiry should not terminate with whether a player possesses skill, nor should it depend exclusively upon whether money is involved. The deeper inquiry should be: what risks does the digital architecture create, who bears those risks, and what is the least restrictive regulatory mechanism capable of controlling them?

Such an approach would preserve the legitimate objectives underlying the PROG Act while providing a more differentiated constitutional and regulatory foundation for India's digital gaming economy. The future of Indian gambling law should therefore be neither laissez-faire nor prohibition for its own sake. It should be evidence-based, technologically informed, constitutionally proportionate and risk-sensitive. The ultimate objective should be a regulatory system in which high-risk gambling is prohibited, legitimate gaming is protected, vulnerable users are safeguarded, financial systems are insulated, digital platforms are accountable and regulatory power remains subject to constitutional discipline. The transition India now requires is therefore not merely from one gambling statute to another, but from regulating the game itself to regulating the risk architecture surrounding the game.

ENDNOTES:

1. *State of Andhra Pradesh v K Satyanarayana* (1968) 2 SCR 387.
2. *State of Bombay v RMD Chamarbaugwala* AIR 1957 SC 699; *RMD Chamarbaugwala v Union of India* AIR 1957 SC 628.
3. *Dr KR Lakshmanan v State of Tamil Nadu* (1996) 2 SCC 226.
4. *Junglee Games India Pvt Ltd v State of Tamil Nadu* 2021 SCC OnLine Mad 2762.
5. *State of Tamil Nadu v Junglee Games India Pvt Ltd* 2026 INSC 594.
6. ibid paras 214–320.
7. Promotion and Regulation of Online Gaming Act 2025, ss 2, 5–7.
8. See generally V Umakanth, 'Regulating Online Gambling: The Indian Perspective' (2011) 27(2) Computer Law & Security Review 180.
9. See eg *State of Andhra Pradesh v K Satyanarayana* (n 1); *Dr KR Lakshmanan* (n 3); *Junglee Games* (n 4).
10. New Fight Seth and Yatan Pal Singh Balhara, 'Regulatory Framework for Gambling in India: Salient Aspects for Mental Health Professionals' (2024) 65(4) Indian Journal of Psychiatry; see also the broader literature concerning gambling disorder and behavioural addiction.
11. Riddhaditya Ghosh and Tanay Khanna, 'The Tussle Between the Centre and the States for Regulation of Online Games in India' (2025) 29(7) Gaming Law Review 1.
12. Public Gambling Act 1867, s 12.
13. *RMD Chamarbaugwala* (n 2).
14. *Satyanarayana* (n 1).
15. *Lakshmanan* (n 3).

16. *Junglee Games* (n 4).
17. *State of Tamil Nadu v Junglee Games* (n 5).
18. ibid paras 170–214.
19. ibid paras 264–320.
20. ibid.
21. ibid paras 292–331.
22. ibid paras 350–365.
23. ibid paras 376–379.
24. Promotion and Regulation of Online Gaming Act 2025, Long Title.
25. ibid s 2.
26. ibid s 5.
27. ibid s 6.
28. ibid s 7.
29. Promotion and Regulation of Online Gaming Act 2025, Long Title and Statement of Objects.
30. Gambling Act 2005 (UK), ss 3–4.
31. Gambling Act 2005 (UK), ss 67–68.
32. Gambling Commission, 'Remote Sector Guidance' (2026).
33. Interactive Gambling Act 2001 (Cth) (Australia), ss 5, 8 and related provisions.
34. ibid s 8 and associated provisions.

35. Australian Communications and Media Authority, 'Latest illegal online gambling websites blocked' (25 June 2026).

36. *Murphy v National Collegiate Athletic Association* 584 US 453 (2018).

37. Unlawful Internet Gambling Enforcement Act 2006, 31 USC §§ 5361–5367.

38. Wire Act, 18 USC § 1084.

39. See Department of Justice, Office of Legal Counsel, 'Reconsidering Whether the Wire Act Applies to Non-Sports Gambling' (2 November 2018).

40. Gambling Act 2005 (UK), s 4.

41. Gambling Commission, 'Operating Licences' (2026).

42. Interactive Gambling Act 2001 (Cth), pt 2B.

43. Promotion and Regulation of Online Gaming Act 2025, provisions concerning the Online Gaming Authority and classification of online games.

44. Promotion and Regulation of Online Gaming Rules 2026.