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# CONSTITUTIONAL GOVERNANCE OF ONLINE GAMING IN INDIA: PROPORTIONALITY, LEGISLATIVE COMPETENCE, AND ALGORITHMIC ACCOUNTABILITY

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*“Unregulated digital freedom can sometimes become a new form of bondage.”*

— Justice D.Y. Chandrachud

## 1. Introduction

Since 2019, India has witnessed an unprecedented proliferation of online real-money gaming (RMG), with millions of users spending long hours on platforms that permit monetary stakes. What began as casual entertainment has become a multi-billion-rupee digital marketplace that operated through opaque, behaviour-shaping design that keeps users continuously engaged. This growth has produced measurable social costs—financial distress, mental-health disorders, and addiction. The World Health Organization, in the *International Classification of Diseases (11th Revision)*, recognised *Gaming Disorder* as a mental-health condition marked by impaired control and continued play despite harmful consequences<sup>1</sup>. Indian experience confirms this concern. Empirical evidence from the National Institute of Mental Health and Neurosciences (NIMHANS)<sup>2</sup> SHUT Clinic and its Tele-

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<sup>1</sup><https://www.who.int/news-room/questions-and-answers/item/addictive-behaviours-gaming-disorder> visited on 5<sup>th</sup> Nov 2025

<sup>2</sup> 2023-24, Annual Report by Ministry of Health and Family Welfare available on

MANAS helpline shows that technology-related addiction has become a significant public-health concern.

Government data echo these findings. In August 2025, the Minister for Electronics and IT told Parliament that nearly 45 crore Indians had suffered losses exceeding ₹ 20,000 crore from online money-gaming<sup>3</sup> and that 32 suicides in 31 months were linked to gaming debts. State-level figures—Kerala reporting 25 child suicides (2019–22) and Karnataka confirming 32 adult suicides since 2023—underline the scale of harm<sup>4</sup>. Such evidence transformed a social worry into a constitutional question of welfare-state duty.

Earlier regulatory attempts failed. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, as amended in 2023 to introduce *Rule 4A*, created self-regulatory bodies (SRBs) to identify “permissible” online games and set voluntary standards. Most major platforms ignored registration, offshore operators evaded jurisdiction, and complaints multiplied. Several States passed their own prohibitions, later struck down or stayed for inconsistency. Confronted with this fragmentation, Parliament enacted the Promotion and Regulation of Online Gaming Act, 2025 (PROGA 2025) — India’s first central framework prohibiting online games involving monetary stakes. Although the Act received Presidential assent in August 2025, it is not yet fully in force; the Government is finalising rules and establishing the regulator. This article undertakes a pre-implementation constitutional analysis based on the enacted text.

The legal challenges are already before the courts. On November 4, 2025, the Supreme Court of India heard a consolidated batch of

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[https://www.mohfw.gov.in/sites/default/files/Annual%20Report%202023%2024%20DoHFW%20English\\_0.pdf](https://www.mohfw.gov.in/sites/default/files/Annual%20Report%202023%2024%20DoHFW%20English_0.pdf) visited on 9<sup>th</sup> Nov 2025

<sup>3</sup>[https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/aug/doc\\_2025821618101.pdf](https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/aug/doc_2025821618101.pdf) visited on 5<sup>th</sup> Nov 2025

<sup>4</sup><https://www.newsonair.gov.in/ashwini-vaishnav-introduces-promotion-and-regulation-of-online-gaming-bill-2025-to-safeguard-youth-and-regulate-online-gaming-sector/#:~:text=Vaishnav%20stated%20that%20several%20online,Mr.> visited on 5<sup>th</sup> Nov 2025

petitions transferred from the Delhi, Karnataka, and Madhya Pradesh High Courts—including those filed by *Clubboom 11 Sports & Entertainment Pvt Ltd*, *Bagheera Carrom (OPC) Pvt Ltd*, and *Head Digital Works Pvt Ltd*—along with a public-interest litigation (*CASC & Anr. v. Union of India*, W.P.(C) No. 1008/2025). The Union has been directed to file a comprehensive affidavit, and the matters stand listed for joint hearing on November 26, 2025<sup>5</sup>. These petitions collectively question the constitutional validity of PROGA 2025, raising issues of proportionality, legislative competence, and the scope of trade freedom under Article 19(1)(g).

This article examines the constitutional legitimacy of *PROGA 2025* within India's evolving digital-governance jurisprudence. It argues that the Act satisfies the proportionality standard under Articles 14, 19, and 21, that it lies well within Parliament's legislative competence under Union List Entries 31, 42, and 97, and that it responds appropriately to the opacity and behavioural manipulation inherent in algorithm-driven gaming platforms. Together, these dimensions establish *PROGA 2025* as a constitutionally proportionate and institutionally competent measure of welfare-state governance in the algorithmic age.

## **II. From Skill versus Chance to Algorithmic Harm: Reframing the Constitutional Baseline**

### **A. Historic Doctrine and its Constitutional Purpose**

The traditional skill–chance distinction in Indian gaming law was never a moral classification but a constitutional mechanism for balancing economic freedom with social control. The Supreme Court in *R.M.D. Chamarbaugwalla v. Union of India*<sup>6</sup> upheld the validity of restricting pure games of chance, holding that Article 19(1)(g) protects rational and legitimate enterprise but allows the State, under Article 19(6) to restrain trades that are *res extra commercium* i.e. activities considered injurious to public order or morality. The Court's concern was to preserve legitimate

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<sup>5</sup><https://www.youtube.com/live/4nbQz3miOPc> visited on 5<sup>th</sup> Nov 2025

<sup>6</sup> 1957 SCR 930 (SC)

economic activity based on skill, effort, and fair competition, distinguishing it from wagering, which depended purely on chance.

The doctrine did not establish an unconditional right to engage in gaming; instead, it drew a functional line between economic activity that serves social welfare and that which may be detrimental to it. It was developed for physical games in transparent settings, where skill could be observed and risk self-regulated. Its purpose was to maintain equilibrium between liberty and morality rather than fossilising the boundary permanently.

### **B. Digital Transformation and the Collapse of the Distinction**

The shift from physical gaming space to networked, algorithmic platforms<sup>7</sup> has displaced the factual assumptions that once justified the skill–chance distinction. Online real-money gaming apps, by contrast, utilize proprietary opaque algorithms and software-controlled probability systems operating through black-box logic invisible to the consumer. Black box algorithms make decisions that affect human lives. This trend is not expected to change in the coming years. Automatic decisions will be made not only on an ever-increasing scale, but also with ever-increasing intensity—as a result of which there will also be increasing pressure on public opinion to develop effective control mechanisms, including those which make it possible to question the decision made in individual cases.<sup>8</sup>

Research by Indian consumer-protection and behavioural-economics scholars (including CSRBOX's *Digital Gamble 2025*)

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<sup>7</sup>The term *algorithm* refers to a set of coded instructions that a computer or platform uses to process data and make automated decisions. In online gaming, algorithms determine factors such as difficulty levels, rewards, and user engagement patterns, often without disclosure to players. Their opacity can create information asymmetry, and fairness concerns relevant to Articles 14 and 21 of the Constitution. The duty of digital systems to make automated processes transparent, explainable and fair.

<sup>8</sup> Jarek Gryz, Marcin Rojszczak, Black box algorithms and the rights of individuals: no easy solution to the “explainability” problem, Volume 10, Issue 2 available on <https://policyreview.info/articles/analysis/black-box-algorithms-and-rights-individuals-no-easy-solution-explainability> visited on 12<sup>th</sup> Nov 2025

shows that these systems employ extensive user profiling, real-time demand models, and price elasticity data, that exploit the information gap between operator and user, enabling continual play and repeated monetary loss. This algorithmic power allows firms to charge personalized prices that approach each customer's maximum 'willingness to pay,' effectively creating an illusion of a competitive market while statistically ensuring the maximization of corporate profit over consumer welfare<sup>9</sup>.

Behavioural-design techniques amplify this opacity. Variable-ratio reward schedules, “near-miss” cues, and continuous in-app notifications exploit the same neurological pathways that underlie gambling compulsion<sup>10</sup>. Instant payment mechanisms such as UPI and digital wallets transform what were once discrete bets into a real-time cycle of micro-wagers, producing a constant feedback loop of risk and reward. In such an ecosystem, *skill* ceases to be an independent variable; the platform’s design, not the player’s ability, largely determines outcomes. The resulting information asymmetry—where users cannot verify or contest the algorithmic process—erodes both autonomy and informed consent, values protected under Articles 14 and 21 of the Constitution<sup>11</sup>.

### **C. Legislative Response and Constitutional Continuity**

The Promotion and Regulation of Online Gaming Act, 2025 (PROGA 2025) does not disrupt the established principles of India’s constitutional jurisprudence; rather, it builds upon and extends them in response to new technological realities. Historically, Indian law has recognised two key tenets: firstly, that the State holds the authority to prohibit trades whose inherent operation generates social injury, and secondly, that the legislature

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<sup>9</sup> Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control* (Harvard University Press, 2015)

<sup>10</sup> Luke Clarke and Martin Zack, “Engineered highs: Reward variability and frequency as potential prerequisites of behavioural addiction”, available on <https://www.sciencedirect.com/science/article/pii/S0306460323000217> visited on 7<sup>th</sup> Nov 2025

<sup>11</sup> Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (privacy as autonomy); Anuradha Bhasin v. Union of India, (2020) 3 SCC 637 (due-process and necessity in digital restrictions)

is granted considerable discretion in determining the existence and extent of such harm. *PROGA 2025* applies this concept to the algorithmic economy, where harm arises not from visible physical gaming establishments but from digital infrastructures designed to promote compulsion and potential financial loss.

Since the statute rests on the ideas of public health and moral welfare already accepted in Article 19(6), Parliament acted within the same constitutional tradition that once justified restrictions on intoxicants and lotteries. The shift lies only in method: now, the focus is on regulating code instead of behaviour, and design rather than games of chance. Through its nationwide scope, the Act also fulfils the federal principle of uniform digital governance, addressing cross-border platforms that individual States could neither monitor nor license effectively. In constitutional terms, the measure operates squarely within the Union's pith and substance over telecommunications, inter-State commerce, and residuary matters<sup>12</sup>.

The new law, *PROGA 2025*, doesn't change the basic rules of the Constitution that balance people's freedom with what's right and moral. Instead, it supports those rules. When businesses move online and use opaque technology that users can't control and that hides who is responsible, the government's job to regulate them must naturally get bigger. The Act is therefore just following an old Indian legal idea called "protective restraint." This rule says that the government can make preventive rules when new business methods start causing the same old problems in a new way (e.g., modern algorithms causing the same harm as old fraud).

### **III. Constitutional Validity and Proportionality**

#### **3.1 Legitimate Aim and Public Interest**

The first step in applying the principle of proportionality—which means that any restriction on a right must be necessary, appropriate, and minimally restrictive—is to ask whether the law serves a constitutionally legitimate purpose. This refers to an

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<sup>12</sup> Constitution of India, Seventh Schedule, Union List Entries 31, 42 and 97  
Available At: <https://stsoldierjournaloflawandsocialscience.com>

objective recognised by the Constitution as furthering public welfare, morality, or the protection of life and liberty. The PROGA 2025 satisfies this threshold with ease as its purpose grounded not in revenue generation or paternalism but in public health, moral protection, and socio-economic welfare. Parliament relied on solid evidence: the World Health Organization's classification of *Gaming Disorder* as a behavioural addiction; the annual report 2024, documenting exponential growth in treatment-seeking; and official data linking online-gaming debts to suicides across multiple States<sup>13</sup>. These establish a demonstrable connection between unregulated monetary-stake gaming and injury to citizens' mental health- an interest protected by Article 21.

Indian constitutional jurisprudence has long recognised public health and morality as legitimate grounds for economic regulation. In *Khoday Distilleries Ltd v. State of Karnataka*<sup>14</sup> and *State of Punjab v. Devans Modern Breweries Ltd*<sup>15</sup>, the Supreme Court affirmed that the State may prohibit trades "inherently noxious or injurious to the community." PROGA 2025 simply extends this reasoning to the digital marketplace, where the harm flows not from physical substances but from behaviour-engineering algorithms. By pursuing this aim, the Act gives practical effect to the Directive Principles of State Policy (Articles 38, 39 and 47) and satisfies the first requirement of proportionality: safeguarding life, dignity and welfare.

### **B. Rational Nexus: Direct Connection between Restriction and Objective**

The second requirement of proportionality requires that there is a logical connection between the restriction and its constitutional purpose. In PROGA 2025, that connection is explicit: the statute eliminates the monetary-stake transaction, the structural feature proven to generate addiction, debt, and psychological harm.

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<sup>13</sup> 2023-24, Annual Report by Department of Health and Family welfare available at

[https://www.mohfw.gov.in/sites/default/files/Annual%20Report%202023%2024%20DoHFW%20English\\_0.pdf](https://www.mohfw.gov.in/sites/default/files/Annual%20Report%202023%2024%20DoHFW%20English_0.pdf) visited on 4<sup>th</sup> Nov 2025

<sup>14</sup> (1995) 1 SCC 574

<sup>15</sup> (2004) 11 SCC 26

Empirical data confirm this causal chain. The CSRBOX White Paper (2025) reports that nearly forty-five percent of Indian youth participate in real-money gaming, incurring average net losses exceeding ₹ 10,000 per session, with platform design “favouring the house over individual users”<sup>16</sup>. It attributes these outcomes to integrated payment systems, persistent promotional cues, and celebrity-driven marketing and design features that encourage repetitive play<sup>17</sup>. By banning stake-based play altogether, Parliament directly disables the source of addiction.

By removing the monetary-stake mechanism altogether, *PROGA 2025* directly disables the operational source of injury, achieving an empirically verified alignment between means and end. Comparable logic underlies *State of T.N. v. K. Balu*<sup>18</sup>, where the Supreme Court upheld the closure of liquor shops along highways since the restriction cut off the immediate channel of harm. In the digital sphere, *PROGA 2025* performs the same constitutional function: it extinguishes the channel through which algorithmic gaming inflicts predictable injury, thereby satisfying the rational-nexus requirement under Articles 14, 19 and 21.

### **C. Necessity (Least Restrictive Means)**

The third step of proportionality requires the State to adopt the least-restrictive yet effective measure to achieve its legitimate objective. The legislative history of the *PROGA 2025* shows that prohibition was chosen only after incremental regulation proved ineffectual. The self-regulatory model introduced through *Rule 4A* of the IT Rules, 2021 allowed industry-run bodies to certify “permissible” games. Within months, the system failed: major operators declined registration, offshore platforms continued operations through proxies, and addiction-related complaints escalated.

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<sup>16</sup>CSRBOX Group, *The Digital Gamble: How Online Real Money Games Are Costing India Its Future* (Aug 2025) available at [https://csrbox.org/media/CSRBOX\\_Whitepaper\\_The-Digital-Gamble.pdf](https://csrbox.org/media/CSRBOX_Whitepaper_The-Digital-Gamble.pdf) visited on 10th Nov 2025

<sup>17</sup>Id.

<sup>18</sup> (2017) 2 SCC 281

Independent research from NIMHANS<sup>19</sup> and CSRBOX<sup>20</sup> substantiates Parliament's conclusion that design-level incentives like continuous reward loops, instant-payment cycles, and persistent notifications create dependency that cannot be corrected by disclosure-based moderation. Because the injury originates in the architecture of monetised play rather than user conduct, lighter regulation cannot achieve the Act's preventive aim. In such circumstances, constitutional doctrine permits the State to escalate to categorical prohibition, provided the restriction remains proportionate to the risk.

The Supreme Court in *Modern Dental College v. State of Madhya Pradesh*<sup>21</sup> clarified that a limitation "impairing the right as little as possible" yet effectively realising the objective satisfies the necessity test. By disabling monetary-stake transactions while leaving non-monetised gaming untouched, *PROGA 2025* represents the least-restrictive effective response to a digital activity whose architecture has rendered self-regulation and fragmented State action obsolete. The Act therefore fulfils the necessity requirement under Articles 14, 19 and 21, translating constitutional restraint into preventive governance for the algorithmic economy.

#### **D. Balancing (Proportionality in the Strict Sense)**

The final step of the proportionality requires that the public benefit outweigh the private loss. In constitutional terms, the inquiry asks whether the social benefit obtained from the restriction exceeds the harm caused to economic freedom under Article 19(1)(g)<sup>22</sup>. In the case of the *PROGA 2025*, the answer is

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<sup>19</sup> 2023-24, Annual Report by Ministry of Health and Family Welfare available on

[https://www.mohfw.gov.in/sites/default/files/Annual%20Report%202023%2024%20DoHFW%20English\\_0.pdf](https://www.mohfw.gov.in/sites/default/files/Annual%20Report%202023%2024%20DoHFW%20English_0.pdf) visited on 9<sup>th</sup> Nov 2025

<sup>20</sup> CSRBOX Group, *The Digital Gamble: How Online Real Money Games Are Costing India Its Future* (Aug 2025) available at [https://csrbox.org/media/CSRBOX\\_Whitepaper\\_The-Digital-Gamble.pdf](https://csrbox.org/media/CSRBOX_Whitepaper_The-Digital-Gamble.pdf) visited on 10<sup>th</sup> Nov 2025

<sup>21</sup> (2016) 7 SCC 353

<sup>22</sup> Article 19(1)(g) guarantees to all citizens the right to practise any profession, or to carry on any occupation, trade or business.

unequivocal. The restriction affects a narrow commercial subset—operators of monetary-stake platforms—while serving an objective of demonstrably higher constitutional value: protection of life, health, and human dignity.

Empirical and administrative evidence confirms that the unregulated RMG (Real-money Gaming) sector has produced extensive social costs—addiction, debt, loss of livelihood, and suicide—far outweighing any revenue or employment benefit.<sup>23</sup>

By contrast, the Act leaves untouched non-monetised digital gaming, e-sports, and recreational play, thereby preserving the creative and technological aspects of the industry. This selective design distinguishes *PROGA 2025* from blanket prohibitions that indiscriminately curtail lawful enterprise; its focus on the stake-based transaction ensures that the measure remains narrowly tailored to the harm addressed.

Jurisprudentially, the balancing standard draws from *Khoday Distilleries Ltd v. State of Karnataka*<sup>24</sup> and *Modern Dental College v. State of Madhya Pradesh*<sup>25</sup>. Both decisions affirm that when the public benefit clearly outweighs private inconvenience, legislative judgment warrants judicial deference. Applying this reasoning, *PROGA 2025* proportionately limits trade freedom to secure a constitutionally superior interest—the preservation of mental health and economic security. In the algorithmic economy, where private code can replicate the addictive force of narcotics, the State's duty to prevent harm justifies strong preventive regulation. The Act thus achieves the equilibrium that constitutional proportionality demands, it restrains market liberty only to the extent necessary to preserve fundamental interests of life, dignity, and social order under Articles 14, 19 and 21.

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<sup>23</sup> CSRBOX Group, *The Digital Gamble: How Online Real Money Games Are Costing India Its Future* (Aug 2025) available at [https://csrbox.org/media/CSRBOX\\_Whitepaper\\_The-Digital-Gamble.pdf](https://csrbox.org/media/CSRBOX_Whitepaper_The-Digital-Gamble.pdf) visited on 10th Nov 2025

<sup>24</sup> (1995) 1 SCC 574

<sup>25</sup> (2016) 7 SCC 353

## E. Legislative Competence and Pith and Substance

The question of legislative competence—whether Parliament has the constitutional authority to enact the PROGA 2025 within India’s federal distribution of powers. Although “betting and gambling” fall under Entry 34 of the State List, the pith and substance<sup>26</sup> of *PROGA 2025* lies not in the regulation of traditional gambling but in the governance of digital networks, electronic communications, and inter-State online transactions—subjects squarely within the Union List.

The operative provisions of the Act address technological infrastructure rather than moral conduct. They regulate internet intermediaries, payment gateways, and algorithmic design—matters inseparable from telecommunications and information-technology policy. Parliament therefore acted under Entries 31 (Telephones, wireless, broadcasting and other forms of communication), 42 (Inter-State trade and commerce), and 97 (residuary power) of the Union List<sup>27</sup>. In *Hoechst Pharmaceuticals Ltd v. State of Bihar*<sup>28</sup>, the Supreme Court affirmed that when legislation substantially falls within one list, incidental overlap with another does not invalidate it. This interpretive approach was reaffirmed in *State of West Bengal v. Kesoram Industries Ltd*<sup>29</sup>, where the Supreme Court emphasised that legislative competence must be determined by examining the statute’s true nature and dominant purpose, not by superficial overlap of subjects. The same principle applies here: any incidental encroachment on State competence over gambling is constitutionally permissible because the statute’s dominant character is digital regulation.

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<sup>26</sup>Pith and substance doctrine refers to a constitutional doctrine used to determine the true nature and purpose of legislation. If the substance of a law falls within the powers of the legislature that enacted it, the law is valid even if it incidentally touches on matters assigned to another legislature. The doctrine prevents laws from being struck down merely because of minor overlaps in the federal division of powers.

<sup>27</sup> Constitution of India, Seventh Schedule, Union List Entries 31, 42 and 97

<sup>28</sup> (1983) 4 SCC 45

<sup>29</sup>(2004) 10 SCC 201

Functionally, Online gaming platforms operate across jurisdictions—servers, users, and payment systems often span multiple States or even nations. Fragmented State legislation cannot effectively monitor or license such cross-border networks. A uniform central framework was thus constitutionally necessary to secure technological and fiscal accountability. In this sense, *PROGA 2025* realises the model of cooperative federalism envisioned by the Supreme Court in *S.R. Bommai v. Union of India*<sup>30</sup> —a system where national coordination complements rather than displacing State authority.

Accordingly, the Act's pith and substance fall within Parliament's competence to regulate digital infrastructure and inter-State commerce, not within the moral policing of gambling traditionally reserved to States. *PROGA 2025* thus survives the federal-competence test and illustrates how constitutional interpretation must evolve with technological change: what once belonged to the physical domain of "betting and gambling" now operates within a borderless digital economy requiring uniform national legislation.

Having established the Act's proportionality and competence, the article now turns to its normative foundation—the State's constitutional duty to ensure algorithmic accountability.

#### **IV. Algorithmic Accountability and the Constitutional Duty of the State**

##### **A. Due Process by Design: Regulating Opacity and Asymmetry**

The central challenge of the algorithmic markets is opacity. In traditional commerce, participants could discern the rules of engagement and contest unfairness; in digital ecosystems, decision-making code is proprietary, dynamic, and inscrutable i.e. preventing users from verifying how outcomes are produced. Online real-money gaming platforms exemplify this asymmetry: outcomes depend not solely on user skill but on random-number generators, adaptive difficulty scripts, and variable reward

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<sup>30</sup> (1994) 3 SCC 1

schedules embedded in software that users cannot audit or predict. This information imbalance undermines the procedural fairness expected under Articles 14 and 21—individuals cannot meaningfully consent to or contest outcomes they cannot observe. Judicially, India's due-process jurisprudence has evolved to recognise such structural deficits of transparency as constitutional harms. In *Justice K.S. Puttaswamy v. Union of India*<sup>31</sup>, the Court linked privacy to autonomy and informational self-determination; in *Anuradha Bhasin v. Union of India*<sup>32</sup>, it demanded procedural safeguards against indefinite digital restrictions. The common thread is that process fairness in the digital realm requires visibility and contestability. Where neither is possible, the State may constitutionally intervene *ex ante*, replacing individual redress with systemic prevention.

*PROGA 2025* embodies this logic. By prohibiting monetary-stake games whose algorithms are inherently opaque and manipulative, Parliament applies a model of "due process by design"—a preventive model that removes the conditions enabling exploitation rather than merely compensating it post-facto. Where *ex post* individual redress is ineffective, such *ex-ante* regulation becomes the only effective due process. The Act thus aligns with the Constitution's shift from passive rights protection to active institutional duty, fulfilling Articles 14 and 21 through preemptive governance of technological risk.

### **B. Public Morality and the Directive Principles**

Indian constitution treats public morality as a standard derived from the Directive Principles of State Policy, which obligate the State to protect health and promote welfare. Articles 38, 39, and 47<sup>33</sup> collectively articulate this moral baseline, defining

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<sup>31</sup> (2017) 10 SCC 1

<sup>32</sup> (2020) 3 SCC 637

<sup>33</sup>The Constitution of India, Part IV (Directive Principles of State Policy): Article 38 (securing a social order for the promotion of welfare); Article 39 (principles of policy relating to economic justice, including preventing concentration of wealth to common detriment and protecting against exploitation); and Article 47 (duty to raise the level of nutrition and standard of living and to improve public health)

governance as a duty to prevent exploitation and ensure conditions for dignified life. In this sense, morality under Article 19(6) operates as a constitutional instrument of welfare, not an instrument of censorship.

*PROGA 2025* applies that moral obligation into digital markets. By targeting online gaming architectures that induce addiction and debt, the statute enforces the constitutional expectation that markets operate within the boundaries of social responsibility. The Court in *Pathumma v. State of Kerala*<sup>34</sup> and *State of Kerala v. N.M. Thomas*<sup>35</sup> recognised the Directive Principles as interpretive aids to fundamental rights, allowing the State to impose reasonable restrictions that advance collective welfare. The same logic applies to algorithmic markets: the State's restraint of exploitative design is an affirmation, not a negation, of constitutional morality.

Moreover, Article 47's mandate to improve public health extends beyond physical substances to behavioural dependencies engineered by technology. Online gaming platforms that monetise user compulsion fall squarely within this modern understanding of intoxicants. By prohibiting them, Parliament aligns moral governance with the scientific realities of digital harm, reaffirming that constitutional morality evolves with technology but remains anchored in the protection of human welfare.

### **C. Dignity and Autonomy in the Algorithmic State**

The guarantee of life and personal liberty under Article 21 includes the right to live with dignity and to make informed, autonomous choices. In the algorithmic economy, that autonomy is routinely compromised by behaviour-shaping design—interfaces that prompt repetitive play through personalisation and continuous rewards. When such manipulation becomes the organising principle of digital commerce, the State's role extends beyond non-interference to active protection of decisional freedom.

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<sup>34</sup> 1978 2 SCC 1

<sup>35</sup> 1976 2 SCC 310

Indian jurisprudence has consistently elevated dignity from a moral aspiration to a constitutional value. The Supreme Court in the case *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*<sup>36</sup> interpreted the right to life as encompassing conditions of humane existence; *Justice K.S. Puttaswamy v. Union of India*<sup>37</sup> expanded that meaning to informational self-determination; and *Navej Singh Johar v. Union of India*<sup>38</sup> located dignity within constitutional morality. Together they articulate a framework in which autonomy must be real, not merely formal and that genuine freedom necessitates protection from systemic manipulation.

*PROGA 2025* embodies this principle. By disabling monetary-stake gaming systems that exploit cognitive bias and algorithmic opacity, Parliament acts to restore the preconditions of genuine choice. The restriction therefore advances, rather than limits, liberty: it preserves the ability to decide free from engineered dependence. In doing so, the Act exemplifies the State's positive obligation under Article 21 to secure an environment in which human agency can survive technological asymmetry.

#### **D. Constitutional Governance in the Digital Age**

*PROGA 2025* demonstrates how statutory regulation can function as an instrument of constitutional duty. The statute's architecture embodies three converging imperatives: transparency, welfare, and autonomy. Its prohibition of monetary-stake gaming is not a technocratic rule but an act of constitutional translation—transforming abstract guarantees of equality, liberty, and dignity into operational standards for the digital market. By addressing algorithmic opacity through design-level control, the law performs what courts have long expected of administrative fairness: anticipatory protection rather than post-hoc correction.

This model signifies a broader evolution in Indian constitutionalism—from negative restraint to positive institutional duty. Articles 14, 19, and 21 no longer operate as barriers to regulation but as frameworks for reasoned intervention, requiring

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<sup>36</sup> 1981 1 SCC 608

<sup>37</sup> 2017 10 SCC 1

<sup>38</sup> 2018 10 SCC 1

the State to act when private systems erode individual autonomy or social welfare. The Directive Principles supply the moral and policy content of that duty, anchoring technological governance in the Constitution's promise of justice—social, economic, and moral.

Consequently, *PROGA 2025* moves beyond conventional morality-based regulation. It inaugurates an emerging jurisprudence of algorithmic accountability, where the legitimacy of market freedom depends on the visibility of its code and the fairness of its design. In this sense, the Act re-affirms the Indian Constitution as a living charter for the digital age: one that measures legality not by the absence of restraint, but by the presence of responsibility.

## V. Conclusion

The constitutional legitimacy of the Promotion and Regulation of Online Gaming Act, 2025 (*PROGA 2025*) rests on a simple principle: when private technology acquires the capacity to shape or to influence human behaviour, constitutional responsibility must extend to its regulation. The Act responds to an empirically verified public-health crisis generated by opaque, behaviour-engineering gaming architectures. Within India's constitutional framework, such preventive intervention represents not executive excess but democratic vigilance—the State acting in fulfilment of its duty under Articles 14, 19 and 21 to protect fairness, welfare, and dignity.

Tested against the standard of proportionality, the statute meets each requirement. Its objective—protecting life and mental health—is legitimate and compelling. Its means—a targeted prohibition on monetary-stake gaming—bear a direct causal link to that purpose. The measure is necessary, having been preceded by the failure of lighter, self-regulatory regimes, and it remains proportionate because it restrains only the harmful element while preserving non-monetised digital play. Judicial precedent has long recognised that the Constitution does not protect trade and commerce activities which are inherently injurious to the

community; *PROGA 2025* simply applies that doctrine to the algorithmic digital market.

On legislative competence, the Act's pith and substance lie within Parliament's authority to govern digital communication, inter-State trade, and residuary technological matters. It demonstrates cooperative rather than coercive federalism—creating uniform standards where fragmented State laws had proved unenforceable. At a normative level, *PROGA 2025* advances the State's positive obligations under the Directive Principles, ensuring that markets evolve within the boundaries of social justice and public health. Crucially, the Act marks a shift from regulation to constitutional governance: a model in which the legitimacy of digital innovation depends on transparency, accountability, and respect for human autonomy. By confronting algorithmic opacity through design-level control, Parliament affirms that the Constitution's guarantee of freedom endures only when citizens remain free from engineered dependence. The Act therefore stands as India's first comprehensive constitutional framework for managing behavioural and economic risks in the digital age—proportionate in scope, valid in authority and grounded in demonstrable public interest.