

VALIDITY OF “GACHA” GAMES UNDER THE PUBLIC GAMING ACT OF 1867

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ABSTRACT

‘Gacha’ is a popular concept in Japan. These are loot boxes that are sold in shops on special occasions. The contents of this box vary from box to box and may obtain things worth more than the price of the box. From this concept, gacha games have originated. ‘Gacha’ games are a very popular category of games in the present society. A very popular RPG-gacha game, “Genshin Impact,” took mobile games by storm when it was released in September 2020. These games are played by people worldwide and across multiple age groups. These games are very often linked to gambling. Although these games are not exactly gambling, they have aspects resembling gambling. In India, there is a very archaic law that regulates gambling. Although there are state regulations that are newer and regulate e-gambling also, there is no Central legislation. In the Public Gaming Act 1867, Section 12 of the Act states, “Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.” Now all Gacha games can have both elements of skill and chance. This paper aims to determine which of the two takes precedence over the other and, thus, through this differentiation, if it comes under the purview of the Public Gaming Act of 1867.

Keywords: Gacha games, gambling, regulation, a game of skill, chance.

INTRODUCTION

“Most of the highest-grossing mobile games in Japan use it, and it has become an integral part of Japanese mobile game culture. The game mechanism is also increasingly used in Chinese and Korean games, as well as Western games. Despite their ubiquity, gacha games have been criticized for being addictive and are often compared to gambling due to the incentive to spend real-world money on chance-based rewards.”¹

Games have been a very integral part of people’s lives in the present times. Every person plays a game online or offline, indoors or outdoors, on their phone or laptop. People may play them as a stress buster or even seriously, viewing them as a career option to become a professional gamer. And in this world of games, there are multiple categories and varieties of games. One of them is the category of ‘gacha’ games. ‘Gacha’ games have become very popular all over the world. Although this category of games originated in Japan, it has spread all across the world and has become super popular across multiple age groups across all countries. The business model of these games includes appealing to people’s gambling tendencies. These games tend to give a feeling of exhilaration to the players and try to get them to spend money in the game using micro-transactions. These games also have special mechanics that differentiate them from other games that allow for in-game purchases. ‘Gacha’ games have a special mechanic called the pity system. Pity is the count of pulls or wishes a player must do to get the character or gear guaranteed on the banner. Most gacha games have a pity system, but there are some exceptions, like “Fate Grand Order,” which is one of the most profitable gacha games that do not have a pity system. In the last 2 years, during the lockdown, people in India began to consume a lot of online content. Among others, people began to consume a lot of content from other Asian countries, like Japan and Korea. With the rise in the consumption of this content, people also started to follow those games as well. In 2020, the most popular open-world RPG, ‘Genshin Impact’ was released as a cross-platform game. Within 6 months of its release, it had crossed the \$1 billion mark on the mobile platform alone. Showing its popularity worldwide, it became one of the most popular gacha games ever. It has almost 60

¹ https://en.wikipedia.org/wiki/Gacha_game

million+ players² and a lifetime revenue of almost 4 billion USD³. Now it can be said that ‘gacha’ games contain gambling elements. So it should be regulated to prevent the spread of gambling tendencies among the youth in the country. In India, there are legislations that regulate gambling. The Public Gaming Act of 1867 is supposed to be regulating gambling in the country as a central regulation, but it is highly inadequate for the present-day scenario. Online betting and e-gaming have become very popular in the present times, but the law is not adequate to address issues in case any arise. Also, when we are reading the act, we can see that Section 12 of the Public Gaming Act states that any game that is a game of skill over a game of chance is excluded from the purview of this act. All ‘gacha’ games have elements of skill as well as chance. So, this paper intends to clarify the differentiation between the two and, in turn, find its validity under the Public Gaming Act, 1867.

METHODS

The researcher has taken a doctrinal approach and will analyze the content written by other authors on similar topics. The articles include the relationship between Gacha and gambling and the appeal of ‘loot boxes’ in games. The researcher uses the content analysis method, and the chosen content is on the topic of ‘gacha games and their promotion of gambling tendencies.’ This type of analysis is limited by pre-existing data, as the author is not creating or compiling any new data as the primary source, for analysis.

The researcher will answer the main question through this paper:

1. How does the Public Gaming Act of 1867 regulate ‘gacha’ games in India? What is the consequence of the distinction between a ‘game of skill’ and ‘chance’ regarding the validity of ‘gacha’ games under this Act?

² <https://activeplayer.io/genshin-impact/>

³ <https://www.gamesindustry.biz/genshin-impact-makes-37-billion-in-mobile-lifetime-revenue#:~:text=MiHoYo's%20RPG%20Genshin%20Impact%20has,its%20launch%20two%20years%20ago.>

ARGUMENTS

The researcher has reviewed articles about gacha games and their close relation to gambling. There are 4 articles that will mainly be referred to for the purpose of this paper. In the paper by Johnson and Brock⁴, he speaks about the convergence of gambling and video games in the last 5 years. He says that the new phenomena of 'gacha' games have blurred the lines between video games and gambling and have become highly successful. 'Specifically, we see video games increasingly shift to using gambling systems in several ways, while gambling systems are developing tropes of video games to appeal to new demographics. These are important new shifts for understanding the contemporary gambling landscape.' In today's digital age, people have begun to play a lot of online games and to feel the rush they resort to online gambling which would not have been possible before. Although most 'gacha' games do not require you to spend money, doing so does give the player a significant decrease in the difficulty level of the game that what a normal free-to-play (f2p) player would find. In another paper by M. Irene⁵, they talk about the prevalence of loot boxes and their relations with problematic gaming and gambling. The author further states that loot boxes are a hybrid of slot machines and collectible card packs and have similarities with gambling behavior. This can be noticed even in children who collect card packs of, e.g, Pokemon, which they would want to spend money on to get their hands on some limited cards. When speaking in relation to 'gacha-games', when pulling for a loot box, the player feels a feeling of satisfaction and will want to feel it over and over again and will be incentivised to spend money in these games. However, discrepancies arise from the different stances of each country in readers to the same matter. Loot boxes have become a controversial topic in the gaming industry as they blur the lines between gaming and gambling. The prevalence of loot boxes has grown rapidly in recent years, as they offer players a chance to win in-game items or bonuses through randomized chance. This has sparked a debate about

⁴ Johnson, M.R. and Brock, T., 2019. How are video games and gambling converging. Gambling Research Exchange Ontario. <https://www.greo.ca/Modules/EvidenceCentre/files/Johnson%20and%20Brock,2019>.

⁵ Montiel, I., Basterra-González, A., Machimbarrena, J.M., Ortega-Barón, J. and González-Cabrera, J., 2022. Loot box engagement: A scoping review of primary studies on prevalence and association with problematic gaming and gambling. Plos one, 17(1), p.e0263177.

their relationship with problematic gaming and gambling. The author highlights the similarities between

loot boxes and gambling, as they both involve the element of chance and the potential to win valuable items. Loot boxes are often compared to slot machines, where players insert money and hope to win big. Similarly, they are also compared to collectible card packs, where players purchase a pack of cards in the hope of getting a rare or valuable card. However, the stance of different countries on loot boxes varies greatly. Some countries consider them as a form of gambling and have imposed strict regulations to curb their usage. In contrast, other countries take a more lenient approach and do not see them as a threat. This discrepancy has led to a complex regulatory landscape, with the gaming industry grappling to navigate the various laws and regulations across different countries.

In the third paper, written by Leon Y. Xiao⁶, the author tries to bring attention to the dangerous nature of loot boxes and how that affects people in real life. In his paper, he differentiates games into 4 types based on how players obtain loot boxes in the games.

He says that even if they do not cost real-world money to obtain, they tend to normalize gambling behavior and are thus bad. Finally, in the paper by A. Shibuya⁷, the authors speak about the long-term effects of monetary and event features of game mechanics on pathological gaming, weekly exposure, and expenditure among teenagers and young adults in Japan. This study suggests that the cost of limited-time-only gacha can increase later monthly expenses and that a lower cost of normal gacha can lead to increased payment for players who prefer gambling.

The researcher of this study feels that when the in-game resources can be exchanged in the real world for real money, problems might arise. People might find this as a way to earn money while also being able to fulfill their gambling tendencies. The authors of this study are concerned about the potential long-term effects of game mechanics, such as monetary and

⁶ Xiao, L.Y. Which Implementations of Loot Boxes Constitute Gambling? A UK Legal Perspective on the Potential Harms of Random Reward Mechanisms. *Int J Ment Health Addiction* 20, 437–454 (2022). <https://doi.org/10.1007/s11469-020-00372-3>

⁷ Shibuya, A., Teramoto, M., Shoun, A. and Akiyama, K., 2019. Long-term effects of in-game purchases and event game mechanics on young mobile social game players in Japan. *Simulation & Gaming*, 50(1), pp.76-92

event features, on pathological gaming, weekly exposure, and expenditure among teenagers and young adults in Japan. The study focuses on two specific types of game mechanics, limited-time-only gacha and normal gacha, to examine their impact on players. The study suggests that the cost of limited-time-only gacha can increase later monthly expenses. This is because players may feel compelled to spend more money on the limited-time offer, fearing that they may miss out on the opportunity to obtain valuable in-game items. On the other hand, the study also finds that a lower cost of normal gacha can lead to increased payment for players who prefer gambling. This is because the lower cost may make it easier for players to justify spending more money on gacha, as they perceive it as a more affordable form of gambling. The researcher of the study believes that when the in-game resources can be exchanged in the real world for real money, problems may arise. This is because players may view the in-game resources as a means to earn money, which can exacerbate their gambling tendencies. In addition, the researcher argues that the long-term exposure to these game mechanics can lead to an increase in pathological gaming, where players become addicted to the games and spend excessive amounts of time and money on them. Although this is not happening now, some websites buy and sell player accounts of different games. In 'Counter-Strike: Global Offensive,' the skins and skin crates get sold for thousands and tens of thousands of dollars in the market. This has been a way of earning money for people for a long time. To collect and sell rare and cool skins of weapons in the game. People who do this make a lot of money out of it.

This is essentially the practice of 'loot boxes,' and there are a few countries where they are illegal or restricted, like the Netherlands, Belgium, UK (if they can be sold outside the game). Japan only prohibits a particular type called '*kompugacha*.'

Can 'gacha' games be considered to be gambling? Gambling refers to wagering something of value on an uncertain event to win things of higher value than what was

wagered. Now 'gacha' games try to make a player enticed to pull for a new character or gear for a character to fulfill their satisfaction or in the hopes of beating stronger players in a PvP game. So it can be said that 'gacha' games are not exactly gambling, but they can be considered gambling. Then comes the question of whether 'gacha' games are a game of skill or chance. Now to answer this question, the examples that will be taken are "Genshin Impact' and 'Honkai Impact 3rd'. Both of these games are developed by Hoyoverse (formerly known as 'miHoYo').

These games are 'gacha' games and have been extremely successful. Now in both games, there is a part to fight against monsters. This comes in the course of the storyline. In 'Honkai Impact 3rd', there is also an 'abyss' where players compete to get high scores called the 'Q-Singularis/Q-Manifold' and the 'Memorial Arena'.

Both of these modes require a high amount of skill to gain rewards. In 'Genshin Impact', the challenging game mode is called 'Spiral Abyss' and involves choosing 2 teams of 4 characters to clear 3 floors in a stipulated time. Both of these game modes are challenging and involve high levels of skill that the players need to possess to get the rewards. But does that make 'gacha' games not gambling? No. The main attraction of these games is that people can challenge them when they want to and also just play casually and pull for their favorite character.

CONCLUSION

The researcher is of the opinion that, 'gacha' games should not be considered gambling. But they should also not be left completely unregulated so as to protect the interest of the consumers (players) who are playing the game and consuming that content. The researcher is not of the view that these games should be regulated very tightly, but they should be regulated in a way that fits the category of games. Which is, to regulate the aspect of the game where people might get influenced by gambling, but not to interfere with the part of the game which has nothing to do with gambling. The government needs to rework the Public Gaming Act of 1867 to fit the present situation, as well, as the act is very outdated. Although there are many state regulations on gambling and online betting, having central legislation allows there to be uniformity across the country.