

CRITICAL REVIEW OF THE LEGAL REGULATION OF MICROTRANSACTION GACHA: A COMPARATIVE STUDY OF ISLAMIC CRIMINAL LAW AND NATIONAL CRIMINAL LAW

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Abstract

Microtransactions are a type of small-scale financial transaction conducted online. With the advent of the internet, trading transactions no longer require direct interaction between the seller and the buyer, as everything is done through online platforms. One form of microtransaction found in games is gacha. The issue of microtransaction gacha arises due to their inherent gambling elements. However, there is a loophole in current criminal law in Indonesia where no specific regulation governs this issue. This research aims to compare the differences in the legal regulation of microtransaction gacha between national criminal law and Islamic criminal law. The research methodology employed is a comparative method with a literature review approach. The findings of this research indicate that there is no specific regulation in national criminal law that categorizes microtransaction gacha as prohibited acts under the law, whereas, in Islamic criminal law, microtransaction gacha fulfill the elements of gambling and are therefore considered haram (forbidden). Therefore it is important to establish a framework of criminal law that regulates gacha systems to minimize the impacts caused by microtransaction gacha.

Keywords: *Microtransaction Gacha; National Criminal Law; Islamic Criminal Law.*

INTRODUCTION

In the rapidly evolving world of digital technology, a new form of entertainment has emerged, namely online games that utilize the gacha system through microtransactions.

This had become a concerning issue, as in 2019, a mother in Kediri made headlines when she received a credit card bill of 11 million rupiahs.¹ The bill was a result of purchasing diamonds, a type of microtransaction in the online game Mobile Legends Bang Bang, played by her child.

Based on research conducted by McBride and DeRevensky with data collected from 263 participants aged 18 to 25 years old, it was found that 55.4% of them reported spending money on microtransactions every month. This study demonstrates that individuals who spend money on microtransactions tend to develop gambling addiction tendencies.² Building a gambling addiction in this context means that the participants who spend their money on microtransactions in games are more likely to use it for gacha purposes. Muhammad Abi Rafdi stated that gacha is equivalent to gambling as it resembles lotteries within the gaming context and is often referred to as a gambling simulation that is addictive.³

The same research was also conducted by Anson Chui Yan Tang to predict gambling issues based on demographics, gaming behavior, and psychological correlations among gacha players. This study found a positive relationship between the frequency of gacha gameplay and the risk of gambling problems. The more frequently and intensively players participate in gacha activities, the higher the likelihood of them experiencing gambling-related issues.⁴

The statement mentioned above can be substantiated by real-life phenomena that occur in the field. For example, in 2019, a young woman from Pontianak, West Kalimantan, was arrested by the police for committing theft through fund transfers to purchase in-game items in Mobile Legends, resulting in a loss of 1.85 billion rupiahs to

¹ Rendy Adrikni Sadikin, "Abai Awasi Anak, Ibu Di Kediri Harus Bayar Tagihan Game Online Rp 11 Juta," *Suara.com*, April 9, 2019, <https://www.suara.com/news/2019/04/09/180524/abai-awasi-anak-ibu-di-kediri-harus-bayar-tagihan-game-online-rp-11-juta>.

² Anthony King and others, 'Risk Factors of Problem Gaming and Gambling in US Emerging Adult Non-Students: The Role of Loot Boxes, Microtransactions, and Risk-Taking', *Issues in Mental Health Nursing*, 41.12 (2020).

³ Muhammad Abi Rafdi, Sri Soedewi, and Idhar Resmadi, 'Perancangan Motion Graphic Mengenai Bahaya Sistem Gacha Dalam Game Online Bagi Anak Remaja Di Kota Jakarta', *EProceedings of Art & Design*, 9.5 (2022).

⁴ Anson Chui Yan Tang and others, 'Prediction of Problem Gambling by Demographics, Gaming Behavior and Psychological Correlates among Gacha Gamers: A Cross-Sectional Online Survey in Chinese Young Adults', *Frontiers in Psychiatry*, 13.August (2022).

the bank.⁵ The urge to engage in microtransaction gacha led the player from Pontianak to become addicted and continuously top-up, ultimately leading to criminal actions, which serve as evidence of gambling-related issues.

The urgency of this issue is demonstrated by several countries that have taken legal steps to tighten regulations regarding microtransaction gacha. Japan was the first country to take regulatory action on this matter. In 2012, the Japan Consumer Affairs Agency declared complete gacha illegal.⁶ China has also implemented gacha laws that restrict and disclose item drop rates and loot box mechanics, as well as the "pity" system, where players are guaranteed to obtain specific items after a certain number of purchases.⁷ The State Mufti of Malaysia, which is equivalent to the Indonesian Council of Ulama (MUI), has declared that gacha and loot boxes are considered *haram* (forbidden) as they are deemed to be forms of gambling that rely solely on luck.⁸

While some other countries have highlighted the negative aspects and potentially harmful effects of gacha due to concerns about its gambling elements, Indonesia still has no specific legislation regulating microtransaction gacha. Therefore, it is essential to establish a criminal legal framework governing the use of microtransaction gacha. In Islamic criminal law, gambling actions, whether offline or online, are considered *haram* (forbidden). The Indonesian Council of Ulama (MUI) has confirmed that all types of gambling, whether done in person or online, are banned by Islamic law and are thus regarded as *haram* (forbidden).⁹

⁵ Matius, "Rugikan Bank Rp 1,85 M Karena Transaksi Game Online, Wanita Ini Ditangkap," detiknews, 2019, <https://news.detik.com/berita/d-4554998/rugikan-bank-rp-185-m-karena-transaksi-game-online-wanita-ini-ditangkap>.

⁶ Sebastian Schwiddessen, "Loot Boxes in Japan: Legal Analysis and Kompu Gacha Explained," *Originariamente Destinato a Far Parte Di: Watch Your Loot Boxes*, 2018.

⁷ Kiara Hildeman, "Glorified Gambling: Moral and Legal Issues Within the Gacha Gaming Industry," *Washington Journal of Law, Technology, & Arts*, 2022, <https://wjta.com/2022/12/07/glorified-gambling-moral-and-legal-issues-within-the-gacha-gaming-industry/>.

⁸ Dio Puja Altha, "Gacha Dan Lootbox Dinyatakan Haram Oleh Majelis Ulama Indonesia," *Media Informasi*, 2021, <https://mediaformasi.com/2021/10/gacha-dan-lootbox-dinyatakan-haram-oleh-majelis-ulama-malaysia/>.

⁹ Majelis Ulama Indonesia, "MUI Kembali Tegaskan Tentang Status Keharaman Judi Online," *MUI Digital*, 2022, <https://mui.or.id/mui-provinsi/mui-dki-jakarta/35408/mui-kembali-tegaskan-tentang-status-keharaman-judi-online-majelis-ulama-indonesia/>.

According to the description stated in the research introduction, a thorough analysis or study of how the legal regulation of microtransaction gacha is handled in Islamic criminal law and national criminal law is required. In addition, it is crucial to look at the differences between national criminal law and Islamic criminal law in the legal regulation of microtransactions gacha.

METHOD

This study employed library research as its primary research approach, which consists of using the library's information resources to conduct research. It involves investigating, deciding, and analyzing sources, including books, journals, articles, reports, and other essential resources linked to the research topic. The purpose of library research is to obtain reliable data, comprehend the topic properly, and create a solid theoretical foundation for the following research. The research method used is the comparative method. The comparative technique is a research strategy that includes contrasting two subjects of study in order to recognize their similarities, differences, and connections.

RESULT AND DISCUSSION

1. The Basic Concept of Microtransaction Gacha

Microtransaction is in-game payments for unlockable items or content that can be made directly with real-world currency or indirectly through the purchase of virtual currency. Microtransactions have attracted academic and media attention due to their potential similarities to gambling activities. However, gaming industry regulation is less extensive than gambling, which means that vulnerable video game players may be exposed to such transactions.¹⁰

According to Ridho P. Ramadhanu, microtransactions are a business model where users can purchase virtual items using micropayments. Microtransactions are commonly implemented in free-to-play games as a source of revenue for developers. Although

¹⁰ Erin Gibson and others, 'The Relationship between Videogame Micro-Transactions and Problem Gaming and Gambling: A Systematic Review', *Computers in Human Behavior*, 131 (2022).

microtransactions are prevalent in the mobile app market, they are also found in PC software, such as Valve's digital distribution platform Steam, and console games.¹¹

Microtransactions come in various forms, one of which is gacha. Gacha games are a specific sales strategy that is not transparent, where sellers offer gacha pulls to buyers. Each gacha pull gives the buyer a certain probability of winning in the gacha game, similar to lottery tickets. Once the buyer wins the gacha game, they will receive gacha game rewards, such as valuable items. Unlike clear lottery tickets, the probabilities of winning in each gacha pull can vary.¹²

Therefore, microtransaction gacha is a type of business used in online games with a mechanism to obtain specific items randomly by paying with real-world currency.

Moreover, Yamakami (as cited in Pradika, 2022:60) states that gacha is an effective framework for introducing elements of gambling excitement into social mobile games. Moreover, this framework successfully conceals the high prices of premium items, as a single gacha attempt can be done at an affordable cost.¹³

2. The Regulations of Microtransaction Gacha in National Criminal Law

Criminal law is a set of rules that identify prohibited actions and consider them crimes, while also establishing sanctions that can be imposed on the perpetrators of those crimes.¹⁴ In Indonesia, the applicable criminal law governs offenses related to gambling, as stated in Article 303 of the Indonesian Criminal Code (KUHP)¹⁵, which states:

- 1) "Shall be punished with imprisonment for a maximum of ten years or a fine of up to twenty-five million Indonesian rupiahs, whoever, without permission: 1. Intentionally offers or provides gambling opportunities and makes it a source of livelihood, or intentionally participates in such business activities; 2. Intentionally offers or provides opportunities for the general public to gamble, or intentionally

¹¹ Ridho Prawira Ramadhanu, Frederik G Worang, and Shinta J C Wangke, 'A Qualitative Analysis Of Microtransaction And Consumer Behavior Of Online Games (Case Study: Pubg Mobile Games)', *Jurnal EMBA: Jurnal Riset Ekonomi, Manajemen, Bisnis Dan Akuntansi*, 10.4 (2022).

¹² Canhui Chen and Zhixuan Fang, 'Gacha Game Analysis and Design', *Proceedings of the ACM on Measurement and Analysis of Computing Systems*, 7.1 (2023).

¹³ Pradika Muizzul Mufti, 'Penggunaan Sistem Gacha Dalam Game Online Dilihat Dari Perspektif Hukum Pidana', 2022.

¹⁴ Andi Marlina, *Hukum Pidana Indoensia* (CV. Pena Persada, 2019).

¹⁵ R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal* (Bogor: Politea, 1995).

participates in such business activities, regardless of whether certain conditions or procedures are required; 3. Makes participation in gambling games a source of livelihood.”

- 2) “If the guilty party commits such a crime in carrying out their livelihood, then their right to engage in that livelihood may be revoked.”
- 3) “What is referred to as gambling is any game in which the possibility of gaining profit depends solely on luck, although it may also involve players who are more skilled or experienced. This includes all bets on the outcome of races or other games that are not held between the participants themselves, as well as any other form of betting.”

Based on the formulation of Article 303 paragraph (3) of the Indonesian Criminal Code (KUHP), the definition of gambling contains the following elements:

- a. Any game, according to R. Soesilo's explanation, essentially refers to any type of activity that relies on luck in the hope of achieving victory.¹⁶
- b. Gaining profit solely from luck does not have a further explanation regarding "profit" in the Indonesian Criminal Code (KUHP). However, according to the KBBI (Indonesian Dictionary), "profit" refers to "a financial gain obtained in trade and the like."¹⁷ Based on this, virtual goods obtained from gacha results are difficult to consider profit because there is a difference in value when money is converted into virtual goods. Nevertheless, for players who engage in microtransaction gacha and obtain desired items, it can be seen as a form of profit. This means that objectively, microtransaction gacha does not fulfill the element of "profit," while subjectively, it can be argued that it fulfills this element.
- c. Players who are more skilled or experienced, as described by R. Soesilo, refer to intelligence and player habits. In microtransaction gacha, it solely relies on luck and does not require any other skills to obtain the outcome.

¹⁶ R. Soesilo, *ibid.*, hal. 222.

¹⁷ Kemendikbudristek, “Kamus Besar Bahasa Indonesia (KBBI) Daring,” 2016.

d. Betting involves the presence of risks, where players can gain "profit" if they win the desired items and "loss" if they do not obtain them.¹⁸

And in Article 303 bis of the Indonesian Criminal Code (KUHP)¹⁹, which is:

- 1) "Shall be punished with imprisonment for a maximum of four years or a fine of up to ten million Indonesian Rupiah; (1) whoever takes the opportunity to gamble, conducted in violation of the provisions of Article 303; (2) whoever participates in gambling in public places, on the side of public roads, or in places accessible to the public, except with permission from the authorized government that has granted permission for such gambling."
- 2) If the violation occurs within two years since the finalization of a previous conviction for any of these offenses, the offender may be punished with imprisonment for a maximum of six years or a fine of up to fifteen million Indonesian rupiahs.

Also, in Article 27 Paragraph 2 of Act No. 11/2008 on Electronic Information and Transactions, as amended by Act No. 19/2016 concerning Act No. 11/2008 on Electronic Information and Transactions, is as follows:

"Any person who intentionally and without right distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents containing gambling content."²⁰ The aforementioned Article 27 paragraph 2 of the Electronic Information and Transactions Law (UU ITE) does not specifically elaborate on the type or form of electronic information that contains gambling.

Based on the above explanation, it is evident that Indonesian law does not regulate microtransaction gacha, which has even been defined as a form of gambling in other countries. Furthermore, there are no other regulations governing microtransaction gacha as a criminal offense. This condition is known in criminal law as the principle of legality or legal principle.

¹⁸ Raka Andhika Yudhistira, 'Urgensi Hukum Mengenai Microtransaction Loot Box Pada Permainan Genshin Impact', *Novum: Jurnal Hukum*, 2023.

¹⁹ R. Soesilo, loc. Cit.

²⁰ Peraturan Pemerintah RI, "Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik" (Jakarta, 2008).

The principle of legality, also known by its Latin term "*nullum delictum nulla poena sine praevia lege poenali*," asserts that no act can be deemed criminal or punishable without prior legal determination.²¹ In the legislation of Indonesia, the principle of legality is regulated in Article 1 paragraph 1 of the Indonesian Criminal Code (KUHP)²², which states:

"No act shall be punished except under the criminal provisions of the law that existed prior to the commission of the act." According to R. Soesilo in his book, the criminal provisions of the law cannot be applied to actions that were committed before those provisions were enacted, which means that the law cannot be applied retroactively. This means that microtransaction gacha cannot be considered a criminal offense as there is no pre-existing law governing it.

3. The Regulations of Microtransaction Gacha in Islamic Criminal Law

Islamic criminal law explicitly prohibits gambling and categorizes it as a forbidden and punishable act. Allah SWT states in Surah Al-Maidah, verse 90, which translates to, "O you who believe! Intoxicants, gambling, idolatry, and divination are abominations of Satan's doing. Avoid them, so that you may prosper."²³

Then Allah SWT states in Surah Al-Maidah, verse 91 regarding the consequences of gambling, which translates to: "Satan's plan is to stir up hostility and hatred between you with intoxicants and gambling and to prevent you from remembering Allah and praying. Will you not then abstain?"²⁴

As for the hadith that confirms the prohibition of gambling, which states:

Narrated by Sulaiman bin Buraidah, from his father, The Prophet Muhammad SAW said: "Whoever plays with gambling, it is as if he has dipped his hand in the flesh of a pig and its blood" HR. Muslim.²⁵

Furthermore, the prohibition of engaging in gambling is mentioned in the following hadith:

²¹ Asas Legalitas Perluasan, 'Perluasan Asas Legalitas Dalam Rkuhp Sebagai Upaya Pembaharuan Hukum Pidana Indonesia', *Journal Presumption of Law*, 3.1 (2021).

²² R. Soesilo, op. Cit.

²³ Kementerian Agama RI, "AL-Qur'an Al-Karim Dan Terjemahannya" (Jakarta, 2022).

²⁴ Kementerian Agama RI, *ibid*.

²⁵ Lc Luki Nugroho, "Judi Terselubung," 2019.

Narrated by Abu Musa Al-Ash'ari, The Prophet Muhammad SAW said: "Whoever plays with dice (gambling), it is as if he has disobeyed Allah and His Messenger" HR. Abu Daud.²⁶

In the context of Islamic criminal law, the term for gambling is known as *maysir*, which refers to transactions that rely on uncertain situations and involve an element of luck. According to Muhammad Ayub (as cited in Diana Izza, 2021), *maysir* and *qimar* refer to games that involve the element of chance (game of chance).²⁷ The Indonesian Council of Ulama (MUI) affirms that all forms of gambling, whether conducted directly or through online platforms, are declared forbidden (*haram*) acts.²⁸

According to the Al-Quran, Surah Al-Maidah, verse 90, *maysir* is mentioned as an act that is incited by Satan and should be avoided by Muslims. In the tafsir (interpretation) of Al-Mishbah by Muhammad Quraish Shihab (as cited in Kadafi, 2023), it is explained that *maysir* can lead to significant losses because of the players' desire to constantly seek large amounts of money, whether they win or lose. In this context, *maysir* can hinder individuals from constantly remembering Allah.²⁹

To be considered as gambling, three aspects must be fulfilled: first, there must be a wager involving assets or material from both parties involved in the gambling. Second, there must be a game used to determine the winner and loser. Third, the winning party will gain the wagered assets, either partially or entirely, while the losing party will lose their assets.³⁰

The position of *maysir* in microtransaction gacha occurs when players use real money to play gacha but do not obtain the desired items. Meanwhile, the game developers gain profit from these transactions. In this case, the buyer (player) spends money on the winner (developer) for the game, which is a transaction system based on luck.

Since players do not earn actual money as prizes in gacha, the gambling system is different from that in the real world. However, users perceive earning rare items through

²⁶ Lc Luki Nugroho, *ibid.*

²⁷ Diana Izza and Siti Fatimatus Zahro, 'Transaksi Terlarang Dalam Ekonomi Syariah', *KEADABAN*, 3.1 (2021).

²⁸ Majelis Ulama Indonesia, *loc. cit.*

²⁹ Rudi Kadafi, 'Al-Maisir Dalam Al-Qur'an Studi Analisis Makna Qs. Al-Maidah: 90', *UInScof*, 1.1 (2023).

³⁰ Diana Izza and Siti Fatimatus Zahro, *ibid.*, hal. 28

gacha to be equivalent to winning a sizable sum of money in a gambling game. Additionally, players have the option of investing extra money to experience the rush of a large win. This context of the game is referred to as a gambling simulation.³¹

According to Saiful Adlie (as cited in Febriandika et al., 2022), the state mufti of Malaysia prohibits the gacha system in the fatwa *Ersyad Al-Fatwa* No. 626 regarding gambling issues, based on legal considerations that fulfill the three aspects of gambling. This decision is also supported by arguments from various books and the Al-Qur'an, specifically Surah Al-Maidah verse 90, which explains that alcohol, gambling, idolatry, and seeking help from fortune are loathsome acts and acts of Satan.³²

Specifically, the regulations of gambling in Islamic criminal law fall under the category of *jarimah ta'zir*. *Ta'zir* refers to punishments that are not explicitly defined whether in the Al-Qur'an or Hadith, but are related to criminal acts that violate the rights of Allah and individuals. It also includes penalties determined by the authorities for various forms of harmful or disruptive misconduct that affect the public interest.³³

Jarimah ta'zir is divided into several parts³⁴, as follows:

1. *Ta'zir* for sinful acts, which include:
 - a) Sins that are subject to *hudud* punishments and sometimes *kafarat* (expiation).
 - b) Sins that are only subject to *kafarat* without *hudud* punishment.
 - c) Sins that are not subject to *hudud* or *kafarat*.
2. *Ta'zir* to achieve the public interest (*maslahah*). *Ta'zir* in this category is not directed towards sinful actions but rather towards actions that impact the public interest, without considering the nature of the deeds, but rather their consequences.

³¹ Akiko Shibuya, Mizuha Teramoto, and Akiyo Shoun, "Systematic Analysis of In-Game Purchases and Social Features of Mobile Social Games in Japan.," in *DiGRA Conference*, 2015.

³² Nur Rizqi Febriandika, Nurkholis Majid, and Rahul Kumar, 'Review of Islamic Law on Microtransaction Contracts in the Gacha System', *Borobudur Law Review*, 4.2 (2022).

³³ Izzah Farahiya, "Tinjauan Kriminologi Terhadap Peningkatan Tindak Pidana Judi Online" (UIN Ar-Raniry, 2023).

³⁴ Ahmad Rofiq, Pujiyono Pujiyono, and Barda Nawawi Arief, 'Eksistensi Tindak Pidana Ta'zir Dalam Kehidupan Masyarakat Indonesia', *Journal of Judicial Review*, 23.2 (2021)

3. *Ta'zir* directed at specific violations, such as engaging in disliked (*makruh*) actions or neglecting recommended (*sunnah*) practices, especially if these violations have an impact on the public interest.

As for the punishments for *jarimah ta'zir*³⁵, they come in several forms, generally categorized into three types:

1. Punishment on the body, which can take the form of flogging (whipping) or even the death penalty.
2. Punishment of freedom, which can involve imprisonment or exile.
3. Punishment of wealth can be carried out by seizing or confiscating specific assets if deemed necessary for the public interest.

In this context, microtransaction gacha constitutes a form of gambling. Furthermore, because during the time of the Prophet Muhammad, there were no technologies such as computers, the internet, or online games as we have today. Therefore, there is no explicit verse in Al-Qu'an or hadith that mentions the existence of the crime of microtransaction gacha as it exists today. It means microtransaction gacha classified as *jarimah ta'zir*.

4. Comparative Results of the Regulation of Microtransaction Gacha in National Criminal Law and Islamic Criminal Law

From the aforementioned explanation, there are significant differences in the regulation of microtransaction gacha between national criminal law and Islamic criminal law. In national criminal law, there are provisions regarding gambling in Article 303 and Article 303 bis of the Indonesian Criminal Code (KUHP). Article 303 is used to punish perpetrators who act as gambling organizers or companies that facilitate gambling activities, while Article 303 bis is used to punish individuals involved in gambling games.

And in Article 27 paragraph 2 of Act No. 11/2008 on Electronic Information and Transactions, which regulates online gambling. However, none of the regulations mentioned above, nor any other regulations in Indonesia, specifically regulate or categorize microtransaction gacha as a criminal offense.

For an act to be considered a criminal offense, it must meet the elements of an act prohibited by law and have resulting consequences.³⁶ Therefore, the microtransaction

³⁵ Ahmad Rofiq, Pujiyono Pujiyono, and Barda Nawawi Arief, *ibid*.

³⁶ Andi Marlina, *loc. cit*.

gacha has fulfilled one of the elements, which is the resulting consequences. This can be seen from one of the examples mentioned earlier. It was the case in 2019 when a young woman from Pontianak, West Kalimantan, was arrested by the police for committing theft through fund transfers to purchase in-game facilities in Mobile Legends, causing a loss of 1.85 billion rupiah to the bank.³⁷ The drive to engage in microtransaction gacha led the player from Pontianak to develop an addiction and continue to top up funds, ultimately leading to the commission of a criminal offense, which serves as evidence of the existence of gambling-related issues.

On the other hand, regarding the element of an act prohibited by law, Anselm von Feuerbach (as cited in A. Situngkir, 2018) formulated the principle of legality as "No crime, no punishment without prior penal law."³⁸ This means that an act cannot be considered a crime, and no punishment can be imposed for it unless it is expressly prohibited by law before the act is committed. In other words, individuals cannot be held criminally liable for conduct that is not specifically defined and prohibited by law.

Furthermore, the principle of legality is also regulated in Article 1 paragraph 1 of Indonesian Criminal Code (KUHP), which states: "No act shall be punished except under the criminal provisions of the law that existed prior to the commission of the act.

The definition of gambling can only be found in Article 303 paragraph (3) of the Indonesian Criminal Code (KUHP), which contains elements of any game to obtain profits based on luck, player skill, and betting. And as previously explained, microtransaction gacha does not fulfill the element of "profit" objectively or with player skill. This means that microtransaction gacha is not an act prohibited by the prevailing law.

Unlike Islamic criminal law, which from the beginning emphasizes the prohibition of gambling, as stated by the Indonesian Council of Ulama (MUI) that all forms of gambling are forbidden.³⁹ Considering that the position of microtransaction gacha is similar to *maysir*, which is a game of chance, the position of microtransaction gacha is

³⁷ Matius, loc. cit.

³⁸ Danel Aditia Situngkir, 'Asas Legalitas Dalam Hukum Pidana Nasional Dan Hukum Pidana Internasional', *Soumatara Law Review*, 1.1 (2018).

³⁹ Majelis Ulama Indonesia, loc.cit.

deemed forbidden. And to be considered gambling, there are three aspects that must be fulfilled: first, there must be a bet involving assets or material from both parties involved in gambling. Second, there must be a game used to determine the winner and loser. Third, the winning party will obtain the wagered assets, either partially or entirely, while the losing party will lose their assets.⁴⁰

In this case, the position of maysir occurs when players use real money to play gacha but do not obtain the desired item. Meanwhile, the game developer makes a profit from the transaction. In this situation, the buyer (player) pays money to the winner (developer) for the game, which constitutes a transaction system based on luck.

This is strengthened by the fatwa issued by the state Mufti of Malaysia, which prohibits the gacha system in its fatwa, namely *Ersyad Al-Fatwa* No. 626 regarding gambling issues. This is based on legal considerations that fulfill the three aspects of gambling, along with arguments from several books and the Al-Qur'an in Surah Al-Maidah verse 90, which explains that alcoholic drinks, gambling, idolatry, and seeking help from fortune are evil deeds and acts of Satan.⁴¹

In addition, microtransaction gacha, which contains elements of gambling, falls under the category of *jarimah ta'zir*. This means that it is not clearly specified in the texts of the Al-Qur'an or Hadith regarding gambling or microtransaction gacha. This is understandable as this issue is a new problem that has arisen due to technological advancements.

Therefore, considering that, from the perspective of Islamic criminal law, microtransaction gacha is included and contains elements of gambling, it is necessary to have a regulation that governs microtransaction gacha as a new form of criminal gambling in Indonesia. By doing so, the impacts arising from microtransaction gacha can be minimized.

CONCLUSION

National criminal law only regulates gambling offenses in Article 303 and Article 303 bis of the Indonesian Criminal Code (KUHP), as well as Article 27 paragraph 2 of the

⁴⁰ Diana Izza and Siti Fatimatus Zahro, loc. cit

⁴¹ Nur Rizqi Febriandika, Nurkholis Majid, and Rahul Kumar, loc. cit.

Electronic Information and Transactions Law (UU ITE), and there is no specific regulation in Indonesia that specifically addresses the issue of microtransaction gacha. This is because, under Indonesian regulations, the form of microtransaction gacha is not categorized as gambling, and based on the principle of legality this action cannot be held criminally liable. In Islamic criminal law, microtransaction gacha is considered maysir, a form of gambling which means this action is classified as jarimah ta'zir. This is a gap in the current criminal law in Indonesia. Therefore, it is important to establish a framework of criminal law that regulates gacha systems to minimize the impacts caused by microtransaction gacha.

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