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Reflections on Indian Casino Gaming and the Image of the “Rich Indian”

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Abstract. This paper revisits the controversial debates regarding casinos on Native American Reservations. Gambling on Native Indian reservations is a fairly recent phenomenon dating from the 80s. Gaming on native land raised a number of questions, ranging from legal issues to cultural tensions which excelled with surrounding communities. However, gaming on Native American land created a new image of the previously unimaginable “rich Indian” and it thus shook the myths about Native Americans. Gaming on native land has therefore disturbed the two most dominant perceptions about Natives – that of the inferior, savage, oppressed on the one hand, and the *noble savage* on the other. The paper will refer to several anthropological studies on gaming on Native American land comparing it to the prevalent imagery of Natives and the contemporary stereotypes (especially those portrayed through Hollywood) still associated with them. The financial profit of casinos has brought a new level of economic, political, social, and legal power to the Native Americans and created the new image of the “rich Indian”. The crossroad at which this “new Indian” and the typical definitions and ideas about what constitutes an Indian meet and conflict each other is the central theme of this paper.

Key words: casino, gambling, Native American gaming, Native American land, indigenous

Introduction: A Brief History of Native American Gaming

Native Indians have practiced gaming as part of various rituals and ceremonies well before the arrival of Europeans. Church leaders in California missions aimed at forcing Indians to abandon what they called then “heathen worship” [1]. Native American gaming practices have been recorded in 1970s edition entitled *Games of the North American Indian* by Stewart Culin. The beginnings of Native American gaming and the so called Indian casinos is however, far more recent. We can mainly locate it in 1979 when the Seminole tribe in Florida opened a high-stakes bingo parlor and after the arrests carried soon upon the opening, the tribe sued the county (*Seminole tribe vs Butterworth*) stating their sovereign rights which guarantee them no interference from the state government. The ruling in favour of the Indians opened a whole set of legal battles and future tensions coupled with vigorous opposition from state governments and political pressure. In 1980 the Cabazon Band of Mission Indians started casino operations by opening bingo and poker halls. Soon after the arrest of Indians, the Cabazon sued in federal court (*California vs Cabazon Band of Mission Indians*) and won, with the court’s decision that Indian gaming can be ruled exclusively by the Congress and the federal government, thus upholding tribal sovereignty. The decision of the Supreme Court in 1987 in this case was the start of the rapid increase of legal gaming on Indian reservations.

What followed was an intervention in the tribal sovereignty with the introduction of the Indian Gaming Regulatory Act of 1988 (IGRA) signed by President Ronald Reagan. The Congress established the National Indian Gaming Commission. The main purpose of IGRA was to regulate Indian gaming operations, and in some cases provide federal protection for tribes from actions of the state government, but in addition, it allowed criminal prohibitory laws to be applied to reservations. This to some extent marked the introduction of economic racism, by breaching tribal sovereignty and requesting that there be a gaming compact established between individual tribes

and state agencies. The compact comes at a price since a tribe that enters into one concedes some of its sovereign authority over its land and people to the state. The compacts must be established in cases where tribes want to introduce Class III gaming. Bingos and few other games on reservations which fit under Class I still remain regulated by Federal law. There are conflicting views on the real agenda behind IGRA's introduction of gaming classes. Opinions vary but many point to the fear of the big casino industries in Las Vegas and Atlantic City coupled with the desire to keep tribal gaming at bay. Capriccioso quotes Jerome Levine, an expert on tribal law and gaming with the Holland & Knight law firm who states that "Class III was a compromise between tribes and states, but it was not expected that this area would become about 85 percent of all tribal gaming" [2]. And while some states still hesitate to grant the compacts needed for the Class III gaming, Class II has seen major innovations where bingos were turned into resembling slot machines with so far unseen graphics and electronics.

Now that some tribes have become seriously involved in casino operations a new level of economic and cultural independence is opening up. Tribes involved in casino activities have largely contributed to the health, education, cultural protection, etc. on the reservation but have likewise become a source of potential campaign contributions. The financial profit has brought a new level of economic, political, social, and legal power to the Native Americans, which is the crossroad at which this "new Indian" and the typical definitions and ideas of North Americans about what constitutes Indian meet and conflict each other.

Persistent Stereotypes of Native Americans and the New "Rich Indian" Image

The arrival of Europeans and the colonization of America by white settlers have received a huge body of literature. In many of those historical accounts it is noted that the territory of North America was at the time of European arrival *terra nullius* – nobody's land. As a legal theory *terra nullius* holds that the 'discovered' lands were empty. Europeans could take territories and recourses under their jurisdiction. Both the *discovery doctrine* – a concept of public international law which holds that governments whose subjects have travelled and occupied countries can lay claim over the territory since the inhabitants were not subjects of a European Christian Monarch and had no sovereignty and the *terra nullius* concepts have been criticized by various scholars and political activists. The dubious term Indian is a result of a Columbus's navigation confusion but is still prevalent today although considered as pejorative by many. As Darian-Smith puts it, the 'Indian' "is very much a figment of the white man's imagination" [1]. The common view of the settlers during the colonizing phases especially in the 18th and 19th century regarding the natives was that these people are savages and need to be civilized through Christianity. According to Darian-Smith "in 1819, the U.S Congress established the 'civilization fund' with the explicit purpose of promoting the education and 'civilization' of Native Americans" [1]. During the western expansion a number of treaties have been signed. Of the complex relation between the sophisticated system of tribal governments and the white man's law the legal historian Burke says:

Written treaties that spoke of Indian nations, Indian boundaries, and Indian political rights remained on file, while time and the lack of record concealed the bribery, threats, and force that so often preceded their signing. Because the Indians, under pressure, usually sold the lands that the settlers demanded, the President, the Congress, and the Supreme Court could maintain the formal position that cession had been voluntary [3].

The expansion of the whites across the Midwest was followed with death and disease by many tribes. The border between Europeans and Indians was, as Darian-Smith argues a fictitious one, a site that began to move from east to west, as the pioneers moved, settled, and farmed land. Soon after this, people like William Frederick Cody aka Buffalo Bill became famous through staging the first Wild West Shows. This included Indians portrayed as savages in battles scenes in which they attacked and killed scouts. They were hence stripped of their context, dehumanized and depersonalized. The image of the cruel Indian was perpetuated in the Hollywood production with twists from the barbarous savage into the pure, spiritual Native American, that is, the 'noble savage'. The period from the 70s on has marked the beginning of the ecological and spiritual pure Native Americans that resulted in an enormous commercial industry in the search of the 'spirit' of indigenous cultures. Movie of the 50s, such as *The Searchers* (1956) and *The Unforgiven* (1960), brought to the fore the former image of the Indian as the savage, fierce, violent one [4]. Killing in the name of the Euro-American identity is fully justified especially in *The Unforgiven* where the adopted Kiowa girl played by Audrie Hepburn eventually aligns herself with the white superior culture of her adopted family and kills her Kiowa brother. In contrast to these westerns, the more recent Hollywood production has brought out the positive values of the Native Americans in movies like *Dances with*

Wolves (1990), *The Last of the Mohicans* (1992), *Pocahontas*(1992), *The Indian in the Cupboard* (1995). This production that found sympathy for the Natives was most likely rooted in what preceded, namely the Civil Rights Movement of the 60s which brought about the *Red Power Movement* together with the *Occupy Alcatraz* event. The Trail of Broken Treaties in 1972 expressed the revolt of the 300 something treaties signed and broken by the US government, resulting in the occupation of the Bureau of Indian Affairs (BIA). These events brought forward positive feelings of sympathy and to some extent national guilt, which was then expressed in the overtly positive representation of the new spiritual Indian who lives in symbiosis with nature. Native Americans now became saviors of society, freeing it of anxiety, pollution, complexity. And yet, even these movies, do not free the Indian of the Western gaze, of the Eurocentric perspective, of the white man who comes to live among them and masters their way of life and language within a matter of years, thus again presenting the Native culture as an easy to adjust and learn cluster of customs, beliefs, habits. Moreover, as Darian-Smith points out, both narratives of the noble and the savage Indian reinforce “the inability of the dominant popular culture to imagine native peoples as equal and fully functional citizens of the United States”[1].

It is Indian gaming that disturbs this imagery of the Natives as *either or*. The myths of the poor, oppressed savage as well as the one about the spiritual, pure Indian are being fully deconstructed in the domain of Indian gaming, which brings forth the new, business oriented Indian. This Indian now, can wage legal battles against government agencies, negotiate with politicians, and use to its tribal benefit the new economic, political, and cultural independence. It is questionable though if this new image is liberating for the Natives or has the capacity to create a new set of misconceptions about them and can be detrimental to fund-raising efforts for much needed relief services and community development projects.

Governing Indigenous People through Law

Although Indian law is an extremely complicated area of study, looking into several major laws put into force clearly confirms Darian-Smith point that “law was, and remains, an essential tool by which our dominant society institutionalizes ongoing injustices and discrimination against minority peoples”[1]. The first treaty with the Indians-the Delaware tribe-was signed in 1778 and was the start of more than six hundred treaties to be signed in the years to come. The original intention of the treaties was that Indians owned the land and were willing to grant some of it to the settlers in exchange for promises that the Indian lands and sovereign control over them will remain in Indian hands, and would be protected by the US forever. Soon after this, a set of violent uses of law, involuntary agreements which forced tribes to participate in unjust legal system came about. The 1830s Indian Removal Act forced the Cherokee to walk from Georgia to Oklahoma resulting in the infamous *Trail of Tears*. Indians had to move to a territory granted for sole use by tribes. It was believed that whites would not have any interest of settling in the desert areas of Oklahoma, Arkansas, and Kansas, until they soon realized it might actually be a valuable territory to be settled on. This called for the act known as the General Allotment Act of 1887, more broadly known as the Dawes Act. What this Act has done is redistributed individual tribal members parts of the reservations, and ironically, while it opened the gates to a U.S. citizenship for those who were allotted land, it also brought the obligation to pay taxes, and if unable to do so, they would lose the land to the whites. This act has therefore not only introduced the mechanism of individual, private property nonexistent among Natives before, but it also created the rationale for land removal. The Indian Reorganization Act (IRA) was brought in 1936 and it became known as the New Deal for Indians. It was meant to encourage establishment of new tribal governments and self-management and yet it was imposed without input from tribes. As a consequence “the tribal governments it created imposed an alien form of government on tribal cultures” [5]. All these acts coupled with the removal of reservation lands “boils down to how much legal control, or sovereignty rights, to grant to Native Americans” [1].

The Growth and Impact of Indian Gaming

In 2013 there were estimated to be 449 casino operations in 30 States. At present there are 574 federally recognized American Indian and Alaska Native tribes. A federally recognized tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services from the Bureau of Indian Affairs. It is only those tribes that can actually make a compact with the state and proceed with casino operations. In her earlier study, Darian-Smith notices that out of the large number of tribes

engaged in casino operations only 22 generate the major Indian gaming revenue. The success of casinos greatly depends on the location.

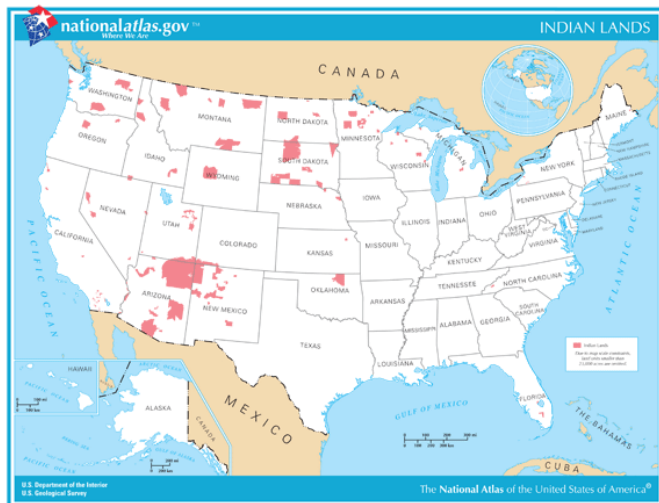


Fig.1.Indian lands of the United States Source: nationalatlas.gov, <http://www.nationalatlas.gov/maplayers.html>. (includes areas over 640 acres).

Significant concentrations of casinos are found in Oklahoma, followed by California, Washington, Arizona, and New Mexico. Michigan, Wisconsin and Minnesota fill out the numbers for the upper Mid West. “The states of Oregon, Montana, North Dakota, South Dakota, Idaho, Wyoming, and Colorado have Indian gaming but with fewer casinos” [6]. The casino operations get scarcer on the East coast, where only Connecticut, New York, North Carolina, Alabama and Florida have Indian casino operations. Due to location, some Indian casinos have made an enormous success and growth in gaming revenue, but others have been less lucky in the endeavor. Examples of successful casinos are Oregon’s Spirit Mountain Casino, the Foxfoods Resort Casino in Connecticut, Morogon and the Chumash Casino in California. Tribes of the Greater Sioux Nation in North and South Dakota generate a far lower revenue due to the (non) attractiveness of the location. The NIGC established by the Congress for the purposes of enforcing IGRA of 1988 and facilitate federal oversight of tribal casinos receives audited financial statements from all gaming tribes each year. Ackerman and Bunch argue that in cases where smaller revenue is generated, such as Minnesota, they are almost exclusively used for public services and improvements in reservation infrastructure as well as to combat poverty and unemployment [6]. To support this case they further argue that in the less successful casino operations like South and North Dakota, unemployment is fought against by employing mainly Native American population (around 80 percent).

Regardless of the certain aspects in the casino gaming that had to be protected with the IGRA – such as prohibition of taxes imposed by states on Indian gaming revenue, some states have breached this and decided to negotiate the revenues. The negotiation has been based on promises of no state competition or the guarantee of exclusivity for gaming in certain area. This again is a proof of twisting and maneuvering laws and regulations in order to govern the tribes, infringe upon their sovereignty, and impose control. Moreover, it is precisely The Bureau of Indian Affairs that “has permitted such agreements to be incorporated into tribal-state compacts and has given approval to them” [6]. The attempts to limit the number of gaming sites on Indian land, or to put limits on the types of games are absolutely contrary to the language of IGRA and yet, it happens. Although Native American sovereignty is the basis of Indian gaming, it is brought into question in a number of cases and again proves the fact that Native Americans today still struggle with basic rights that were supposed to be guaranteed for them.

In section 2701(5) of the IGRA tribes are provided with “the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.” This clearly means that no state that allows gambling on its territory should regulate Indian gaming on tribal territory. This has already been breached by the Congress which requested a tribal-state compact pertaining to Class III gaming. Acherman and Bunch describe this state of affairs by arguing that “Indian gaming today is under something of a siege” [6].

The “New Buffalo” - Gains and Losses

Those in support of the Indian gaming movement often refer to it as the “new buffalo” clearly referring to the herds of buffalo that used to be a source of social and economic survival for many Natives in the 19th century. This in no way means that the living conditions of Native Americans today are perfect. They still have the highest poverty and unemployment rates in the U.S. Their life expectancy is 50 years. Native American families live below the poverty line at rates nearly three times the national average [7]. On average, Native American families earn less than two-thirds the incomes of non-Native American families. One-half of children under the age of 6 live in poverty. Around 90,000 families are homeless or under-housed. Alcohol abuse, suicide, and diabetes are high on the rise among Native Americans. The suicide rate of people between the ages of 15-24 is three times the national rate. The question then is, how much this so called “new buffalo” helps improve this devastating conditions of Native Americans today.

Where casinos have been successful, the proceeds have mainly been used into housing, health, education, and even financing of cultural centers, and museums detailing the histories of a specific tribe. As Darian-Smith points out “gaming on reservations allows Native Americans for the first time, to envisage a real possibility of taking charge of their own futures and well-being” [1]. Hence, Indian casinos offer the double role of helping the natives generate sources to preserve their tradition and identify while at the same time, participate in the business world. Examples of this are the Creek Nation in Oklahoma which puts the revenue money into their hospitals, engaging Indian nurses and doctors, or putting the money into scholarship money. Although there are tensions and cases where tribal leaders do not fully approve of gaming as the source of economic benefit, currently it does seem to provide the only option that opens up the doors to legal and political sovereignty of Native Americans.

However, numerous problems, especially those tied to the new image of the “rich Indian” and distrust and bitterness between tribes with casinos and those without, those federally recognized and those not recognized, come to the surface. Disagreements also arise among much of the local populations that lives closely to a Native American casino. An example of these disagreements is well analyzed by Darian-Smith in the case of the Chumash Casino in Santa Ynez, California. Stereotypes and racism came to the surface in some of the local’s opinions regarding the casino, mainly due to the fact that the valley is famous for the rich people, scenery and vineyards. This elitist aura surrounding the valley generates views that the casino, albeit successful and generating high revenue, is viewed by some locals as the wrong kind of change attracting wrong sort of people both as clientele and employees [1]. Many of the employees in the Chumash Casino case are Latino from a lower socioeconomic class, referred to as the “trailer trash” by the elites. On the one hand, what is at play here is both explicit and implicit racism towards Natives and Latinos, while on the other, the lack of tolerance for the Natives now that their role as subdued group in community relations and politics has changed with the success of the casino. There are also those who argue that Indian simply do not belong to the world of corporate America based on the stereotypes of them as irrational, lazy, primitive. There are also those who argue that Indians should simply be happy with what they have and stop trying to make money.

There are positive responses as well emphasizing the benefits for the Native communities and the fact that the Chumash casino is well controlled, save and serves no alcohol. These responses usually bring into focus the casinos as a source of economic stability and improved conditions in education, housing, and jobs for both Native and non-Native Americans. California has however been one of those states that has renegotiated the existing compacts with several (five) tribes and has demanded a greater share of the gaming revenue. It has also requested a one million dollar payment to the state to be financed over eighteen years. After the eighteen years, the tribes are requested to pay additional annual payments of approximately \$700 million. All this is in return for exclusivity from non-Indian competition [6]. In addition, in the case of state compact with California, the Chumash tribe is obliged under law to contribute to both the Revenue Sharing Trust Fund (give to tribes that do not engage in casino activities, \$ 1.1. million per year) and the Special Distribution Fund. The latter requires that tribes with casinos contribute a percentage of their annual income to a fund that will be distributed by a state for gambling related compensation (fire, police, sewage, roads, people with gambling addiction, cheaper housing, etc.). Darian-Smith rightfully brings to the fore the fact that no non-Indian casino operator in Las Vegas or Atlantic city” has ever been forced to pay for providing services for gambling addictions, or for health, recreational, or housing amenities” [1]. Tribes are therefore, as she puts it, held to higher community standards than any other entrepreneur or enterprise in the country.

Socioeconomic Effects of Indian Gaming and the 'Rich Indian' Image

In the reflections on the history of Indian gaming and the forecast of what it might bring for the future, Schaap rightly notices that the earlier policies of forced assimilation, allotment, reorganization, and associated BIA mismanagement and corruption left reservation Native Americans the poorest minority in the United States, with little or no hope of escape from destitution” [8]. Although the statistics still show that Native Americans have the highest rate of unemployment and are struggling with poverty, obesity, alcohol abuse, and under housing, some scholars (Tylor, Krepps, and Wang) argue that Indian casinos have had a substantial economic and social impact. Prior to 1989 the unemployment rate was 38%, while after 1995 it dropped to 13% for tribes that started casino operations. One must be aware that only a number of casinos are really successful, generating 40% of the Indian gaming revenue, while for the others, the profit is merely marginal. More and more tribes are building houses, schools, community centers, casinos and resorts. In some cases natives are entering the artifacts market, trying to buy back their cultural heritage. An example is the Pechanga Band of Luiseno Indians, which operate a casino near Temecula in southern California. They have vied for the right to display Indian artifacts currently housed in the Southwest Museum in Mount Washington, near LA. One of the most successful Indian casinos, the Foxwoods Resort and Spa has funded the Pequot Museum. Moreover, more powerful tribes have also demanded greater role in California’s governance procedures. They also invest part of the revenues in political campaigns and charities. The Yavapai-Apache Nation from Verde valley has invested greatly in education.

The positive impact of some of the casino operations must not shutter the fact that many Native Americans today are extremely poor, under employed, under housed, victimized by violent crime, with high rates of suicide, and infant mortality, and 2.4 years lower life expectancy than national average. The casino gambling breaks the passivity of Indians and challenges the enduring stereotypes of the Indian as noble savage or the primitive, irrational and poor Indian through the new image of the ‘Rich Indian’ who can take actions in his own hands. This image is not easily accepted by the dominant American society because it doesn’t fit the image of what a Native American is supposed to be like. Many Americans believe that there is some sort of betray and loss of authenticity epitomized in the rich business oriented Indian. Many even believe that it will destroy the cultural heritage of Natives. We must also be aware that Native Americans are the most highly regulated and controlled group of people in the United States. They are continuously subjects of federal and state laws plus their own inter-governmental procedures. Even the building of casinos is carried out under enormous scrutiny and monitoring of federal and state agencies. Contrary to this strict control, the government, that is more precisely, the military site that houses 40 percent of the nation’s nerve gas and other hazardous gases and lies in the close proximity of the Goshute tribe reservation in Utah. The reservation and the surrounding land of the Goshute Skull Valley reservation is only one example of the use of such lands for dumping sites for nuclear waste and toxic materials. Hanson calls this “environmental racism that is little reported and addressed” [9].

7 Concluding remarks

This paper made a brief reflection on the political, legal, social, and economic benefits and controversies surrounding gambling on Native American land. Through several examples we saw that today Indian gaming is a strong exercise of the sovereign authority of tribes although it is continuously contested, through the IGRA, negotiations of the state-tribal compacts, state’s requests to have access to a portion of the revenue, etc. As Schaap points out “as long as most Americans consider gaming to be an acceptable form of entertainment, it is likely that tribal gaming will be an important part of the U.S. scene” [8]. We saw through several statistical data that it is difficult to measure the direct and indirect economic impacts of gaming on tribal communities. While some casino operations appear to be more economically stable than other types of businesses in the amusement and recreation sectors, we noted that other Indian casinos achieve only marginal profit, mainly due to location. On a general scale casino gaming is considered by many financially struggling Native American communities as a positive economic enhancement that will solve some of their fiscal issues. Many Indian communities also hope that additional jobs, increased wages, increased property values, and reduced need for public assistance engendered by casino operations will result in a stimulated local economy.

With hardly any or no economy or tax base to fund essential services, Native Americans turned to gaming, to generate government revenue needed to fund these services and provide employment for tribal members. The successful casinos helped some tribes emerge as an economic and political power. Now, as a result of tribal gaming,

they are emerging as an economic and political powerhouse. Two members of the U.S. Senate owe their seats to Native Americans. Native Americans have also helped political campaigns, elect governors and U.S. House members and has provided tribal governments with the necessary funds to run their own administrative programs. For these reasons many authors are willing to agree that tribal gaming is a Native American success story. We must not forget however, the statistics regarding poverty, alcohol, abuse, suicide on reservations today, not can we easily dismantle the new Rich Indian/Casino Indian image, which distorts the two fixed images of the ignoble and noble/spiritual savage. Perhaps, there is a revision taking place on a more global scale, one that Darian-Smith points out to lucidly in her concluding remarks. She argues that Native American casinos are actually turning the capitalist model of individual profit on its head, precisely because they use gaming profits for collective tribal economies, establishing museums, community centers, revitalization of cultural values, and helping even the non-Indian community. This, as she argues conflicts the capitalist's economy of individualism and money for money's sake. Although money do play an important part in the casino operations, the agenda behind many of it lies in the overall improvement of the conditions for future generations, and of enabling them to participate in the mainstream society, while retaining their independence and dignity.

In its final instance, gaming on reservations is a voice that speaks against years long governmental neglect and denial of social responsibility, and it might offer future paths to tribal empowerment that will help fight inequalities, injustice and discrimination.

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