THE MORALITY OF INDIAN GAMING: NEGOTIATING A DIFFERENT TERRAIN

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In just two decades, Indian gaming has become the fastest growing segment of the legalized gambling industry. Tribal gaming stems from American Indian tribes' unique legal and political status as sovereign governments. As codified in the federal law that jumpstarted the industry and created its current regulatory scheme, Indian gaming is a means of strengthening tribal governments, promoting tribal self-sufficiency, and catalyzing reservation economic development in some of the most impoverished communities in the United States. Government owned and operated, tribal gaming is "public gaming," with policy goals more akin to a state lottery than to commercial or charitable gambling.

Indian gaming is a $23 billion industry. Today, more than 225 tribes own and operate some 420 casinos in 30 states. Tribal gaming has transformed the quality of life on many reservations. Yet the spread of Indian gaming has given rise to contentious debates over its policy rationale, socioeconomic impacts, and morality. In essence, these polarizing debates boil down to the question of who wins and who loses from the existence of tribal casinos.

Often, the pros and cons of Indian gaming are couched in an oversimplified cost-benefit analysis that pits profits against social problems. Moral objections are wrapped up – or at times, cloaked – in perceptions of and value judgments about gaming's socioeconomic impacts. On one hand, such arguments fail to distinguish between the commercial gaming industry and Indian gaming, decrying the dangers or praising the profits of legalized gambling generally, whether on the Strip, online, or on the reservation. On the other hand, racial stereotypes, anti-sovereignty sentiments, and misinformation specific to tribal gaming frame the debate. Moreover, pan-Indian accounts obscure the wide variation in tribal traditions, cultures, and current identities that inform how tribes and American Indian people experience tribal gaming.

We argue that Indian gaming – in terms of its policy impetus and goals, status as public gaming, elaborate regulatory structure, and legal, political, and cultural roots in tribal sovereignty – gives rise to a more complex moral calculus than do other forms of gambling. What are the appropriate factors for that calculus? Who should have the rightful moral, legal, and political authority to say that Indian gaming is good or bad? Should such decisions be internally generated by a tribal government and its constituents, imposed from without by federal, state, or local policymakers, or arrived at through mutual negotiation?

The moral landscape for Indian gaming is largely uncharted. In this paper, we explore that terrain and map its contours. We describe tribal gaming, contextualizing it as public gaming and an exercise of tribal sovereignty. We develop a theoretical framework grounded in the imperatives of intergovernmental relations and ng law-(al, le[ocalof In%astk grounded in t8 T0.000 Tc9b7008Tv