

# Morality Policymaking and Indian Gaming: Negotiating a Different Terrain

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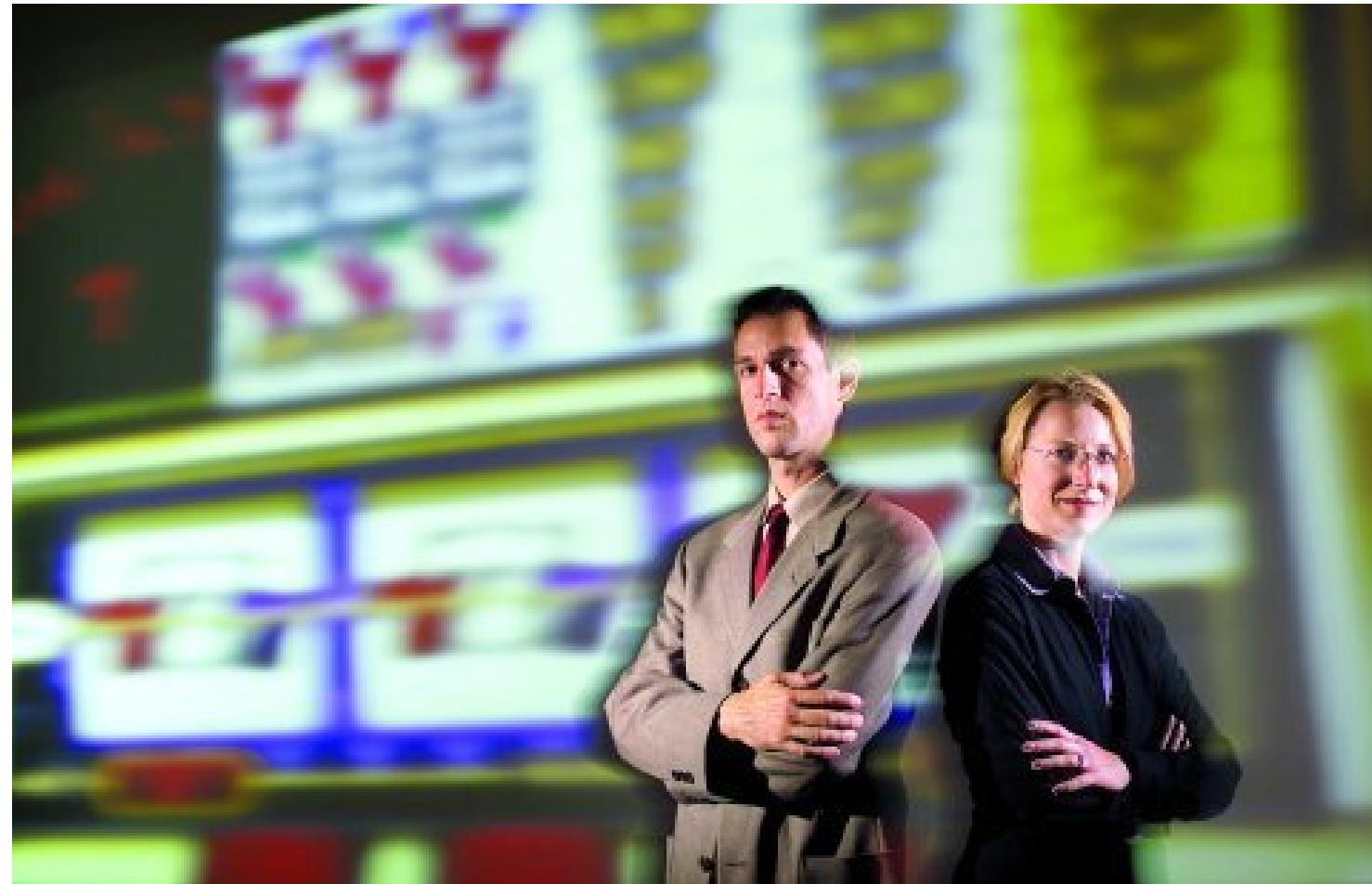
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Gambling and the American Moral Landscape  
Boisi Center for Religion and American Public Life

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# Institute for the Study of Tribal Gaming Law and Policy





# I. Introduction



## II. What Is Indian Gaming?

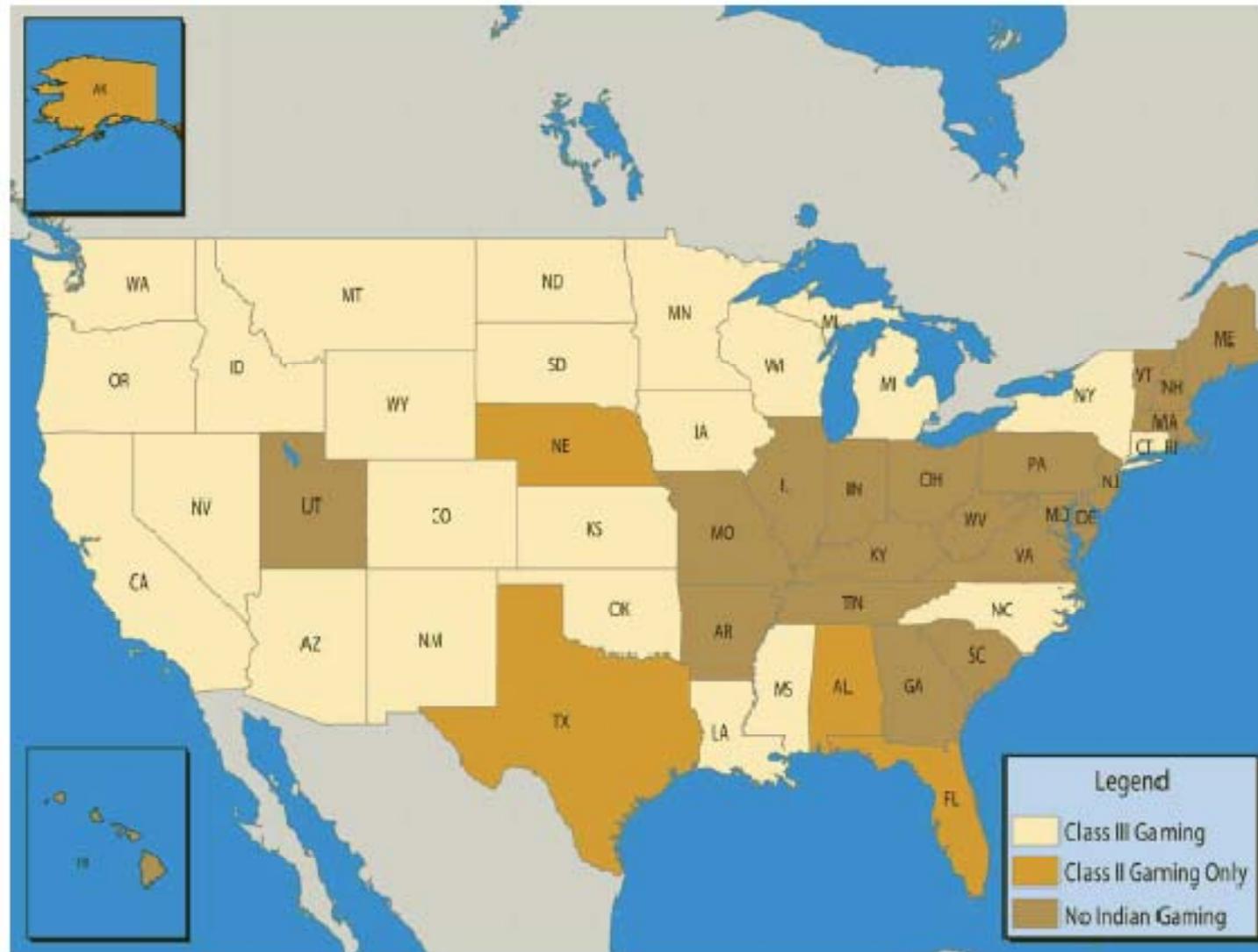
Gaming conducted by “Indian tribe” on “Indian lands,” as defined by 1988 Indian Gaming Regulatory Act (IGRA)



# Indian Gaming Industry

- 30 states
- 230 tribes
- 400 gaming facilities
- 2006 gross revenue: over \$25 billion

# States With Indian Gaming



Source: Alan P. Meister, *Indian Gaming Industry Report, 2007-2008 Updated Edition*



# Foxwoods Resort Casino

Mashantucket Pequot Tribal Nation  
Ledyard, CT



# Spirit Lake Casino & Resort

Spirit Lake Nation  
Devils Lake, ND





# Indian Gaming Operations By Revenue, 2006

| Gaming Revenue                 | Number of Operations | Revenue (in millions) | % Total Operations | % Total Revenue |
|--------------------------------|----------------------|-----------------------|--------------------|-----------------|
| \$250 million or more          | 23                   | 11,214                | 5.9                | 44.7            |
| \$100 million to \$250 million | 40                   | 6,730                 | 10.3               | 26.8            |
| \$50 million to \$100 million  | 45                   | 3,186                 | 11.6               | 12.7            |
| \$25 million to \$50 million   | 64                   | 2,241                 | 16.5               | 8.9             |
| \$10 million to \$25 million   | 72                   | 1,229                 | 18.6               | 4.9             |
| \$3 million to \$10 million    | 66                   | 412                   | 17.1               | 1.6             |
| Under \$3 million              | 77                   | 61                    | 19.9               | 0.2             |
| <b>Total</b>                   | <b>387</b>           | <b>25,075</b>         | <b>100.0</b>       | <b>100.0</b>    |

# III. Gambling Regulation

# Three Regulatory Models

- Commercial casinos
  - Nevada vs. New Jersey approach
  - Conducted by private sector
- Charitable gambling and state lotteries
  - Limited gambling “for a good cause”
  - Public gambling
- Indian gaming
  - Similar in scope to commercial casinos
  - Similar in purpose to state lotteries

# A Brief History of Indian Gaming

- *California v. Cabazon Band of Mission Indians* (1987)
  - Indian gaming is aspect of tribal sovereignty
  - States may not regulate Indian gaming
- 1988 Indian Gaming Regulatory Act (IGRA)
  - Purposes: Promote tribal economic development, self-sufficiency, and strong tribal governments
  - Delegated some regulatory authority to states via tribal-state compact requirement for casino-style gaming



## IV. Morality Policymaking and Legalized Gambling

- A. ***Process***, or how gov't considers gambling policy
- B. ***Outcome***, or policy adopted by gov't

# Explaining the Process

- Different policy generates different politics (Lowi)
- Social regulatory or morality policy
  - Strongly held core values (religious beliefs)
  - Non-technical issues
  - High citizen interest and participation
  - E.g., abortion, capital punishment, GLBT rights, pornography, school prayer, **gambling**

# Informing the Outcome

- “Normal” vices, like gambling, don’t have clear moral consensus
- Non-technical and uncompromising opinions influence outcomes
  - Policy decisions without good information
- Policy outcomes are inconsistent, unpredictable, highly dynamic, and underinformed

# **V. The Different Terrain of Indian Gaming**

# Three Fundamental Differences

- 1. Tribal sovereignty
- 2. Indian gaming is public gaming
- 3. Socioeconomic deficits of tribes

# Tribal Sovereignty

- Tribes: Extra-constitutional political entities
- States ordinarily lack authority
- *Cabazon* and IGRA recognize gaming as aspect of tribal sovereignty
- State and federal control over tribe's gambling policy decisions problematic

# Indian Gaming is Public Gaming

- IGRA's goals: Promoting tribal economic development, self-sufficiency, and strong tribal governments
- Akin to state lotteries, but broader in public policy scope:
  - Primary source of gov't funding for many tribes
  - Job creation, economic diversification
  - Obligations of “full service” government; e.g., law enforcement, emergency services, public housing, social programs, cultural programs

# Socioeconomic Deficits and Reservation Quality of Life

- 1990
  - 1/3 of American Indians live in *poverty* (up to 60% in some communities)
  - Reservation *unemployment* exceeds 50% (up to 90% in some areas)
  - Extreme poverty linked to *mortality rates, suicide, substance abuse, crime*
- 2000
  - Some improvement
  - Indians still lag behind general population in most socioeconomic indicators

# **VI. Moral Policymaking and Indian Gaming**

# Explaining the Process

- Indian gaming is technically complex issue
- Strongly held convictions of state citizens influence tribal rights and tribes' ability to effectively respond to members' needs
- Indians as “invisible minority”
- Higher stakes for tribes & tribal members
- Process must take into account differences

# Informing the Outcome

- IGRA grounded in Indian gaming's differences
- Importance of job creation & functioning economies
- Tribal institutional capacity building
- Cooperative policymaking
- “Good” of Indian gaming must take into account benefits to tribal communities & reservation poverty and unemployment

# Informed Moral Policymaking on Indian Gaming

- 1. What is the moral responsibility of *tribal governments* to serve the public interest?
- 2. What is the moral responsibility of *non-tribal governments* to serve the public interest, including that of tribal governments and tribal members?
- 3. Indian gaming's *three differences* should *guide* non-tribal governments' moral policymaking re. tribal gaming

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# GAMBLING

and The American Moral Landscape

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