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EDITORIAL

What are Critical Indigenous Gambling Studies?

Darrel Manitowabi, Fiona Nicoll

How Casino Rama's St. Germain's Steakhouse Got its Name

"I recall attending that community meeting in 1972 as clearly as if it were yesterday... I remember so well when a distinguished middle-aged man stood up to speak near the end... Granny whispered to me, 'That's Old George'... 'Ah-niin. Most of you know me. I'm George St. Germain, businessman, pilot, entrepreneur. I've been listening closely to the discussion this evening. And I almost don't want to say it, but I had a dream... And I keep thinking about this dream because it was so clear. In the dream, we had built a casino in Rama.' That's right a casino, right here. Lots of visitors poured through the doors in my dream. They all left their money at our Indian casino."

From the short story "Old George" in Lawson (2007, pp. 28-30)
Sherry Lawson, Chippewas of Rama First Nation

Introduction

In a seminal contribution to Indigenous studies and education, Jo-Ann Archibald (2008) introduces the concept of "storywork" to refer to the power of oral narratives in holistic meaning-making which are an important part of Indigenous knowledge systems. Thus, within this narrative tradition we begin with story, an abbreviated story above told by Sherry Lawson in a self-published book that personalizes the history and place of the Chippewas of Rama First Nation in south-central Ontario, home to Casino Rama, a major Indigenous casino in Canada. Casino studies often begin in the context of standard academic theoretical frameworks, such as 'colonialism', 'history', 'politics', 'sovereignty', 'pathology' among other academic constructions. Furthermore, standard academic frameworks are a predetermined linear trajectory: an introduction, literature review, methods, discussion and conclusion. In situ, Indigenous knowledge system frameworks often begin with a story and leave discussion and reflection in the place of the listener who is left to draw conclusions. In research settings, this is also the case; Elders or Indigenous knowledge holders may respond to questions with story and, in so doing, research becomes a poetic conversation with lived experience and memory embodied in responses. So, we begin this editorial with a story by a community member to a First Nation that is home to a casino, and who shares a little-known fact of Casino Rama, a story of a casino

emerging from a dream and a prophecy coming to fruition. In this edition of *Critical Gambling Studies*, Casino Rama is the backdrop in an article presenting an Indigenous framework of gambling studies through storywork, equating casinos and casino policies with the Windigo, an animate being transforming individuals and communities (Manitowabi, this volume).

The Problem of Representation in Indigenous Gambling Research

This special issue of *Critical Gambling Studies* journal takes an interdisciplinary approach to the question: how do historical and ongoing sovereignty struggles in settler-occupied nations shape cultural representations of and academic research on Indigenous gambling? In this editorial introduction, we consider how existing representations of Indigenous gambling might be influenced by critical Indigenous studies to inform responses to different contexts in which this question arises.

Recent Indigenous scholarship unsettles the liberal politics of representation framing wider discussions of Indigenous identity and issues. It also makes visible the role of racial institutions and colonial processes in the epistemological assumptions and ontological orientations of academic work in the field of Indigenous studies (Coulthard, 2014; Simpson, 2014). Aileen Moreton-Robinson (2016) distinguishes "critical Indigenous studies" as

...a knowledge/power domain whereby scholars operationalize Indigenous knowledges to develop theories, build academic infrastructure, and inform our cultural and ethical practices. We do this critical work to challenge the power/knowledge structures and discourses through which Indigenous peoples have been framed and known (p. 5).

Hokowhitu (2020) further situates this approach as a critical engagement of Indigenous peoples' representational entanglement within the historical perspective of anthropology and archaeology (p. 1). This perspective presents Indigenous peoples as pre-civilized beings, and these disciplines set the foundation for academic studies of Indigenous peoples. As representations shifted to a downtrodden people in need of development, academic inquiry therein shifted. Contemporary academic scholarship has now shifted to focus on Indigenous pathologies. Hokowhitu's analysis evokes Foucault's (2002) "archaeology of knowledge", demonstrating how the academic production of knowledge of Indigenous peoples changes over time, but nevertheless reveals distinctive eras in power relationships evident in Indigenous representation.

Shifting this analysis to explore an "archaeology of Indigenous gambling knowledge", a recent Web of Science search for the term "Indigenous gambling" resulted in 87 records, all under the following categories with numbers in parentheses: substance abuse (35); psychiatry (15); psychology clinical (15); psychological multidisciplinary (12); public environmental occupational health (11); anthropology (8); social issues (8); social sciences interdisciplinary (4); history (3) and sociology (3). Publications begin in the year 1997 and continue up to the present. Most Indigenous gambling studies from North America are situated in two eras, before the development of legal casino gambling and thereafter. Before the casino, anthropology and archaeology represent most of the source material on gambling, and after the casino, other social science disciplines emerge but most literature is published within psychology.

The first comprehensive approach to gambling studies took place in the work of Culin (1907) in his examination of North American Indigenous gambling. In that era gambling studies also encompassed anthropological and archaeological studies more generally (e.g., Gabriel, 1996). More recent research on Indigenous gambling is situated within a harm reduction approach (Hilbrecht et al., 2020) or problem gambling approach (Williams et al., 2021; Saunders & Doyle, 2021). Within a critical Indigenous studies framework, then, gambling studies can be understood as a microcosm of the academic gaze on Indigenous peoples as described by Hokowhitu (2020) and

Moreton-Robinson (2016). Both scholars call for a more comprehensive account of academic inquiries of Indigenous peoples, one that moves beyond the anthropological gaze or pathologized subject, encouraging critical reflection on disciplinary representations of Indigenous peoples and scholarly engagement with Indigenous agency in knowledge production.

Shifting the Research Paradigm

In many ways, this edition of CGS introduces a *critical Indigenous gambling studies* that situates Indigenous knowledge within and beyond the arena of disciplinary gambling studies. This approach is inclusive of Indigenous and non-Indigenous critical scholarly voices in gambling studies from New Zealand, Canada and the United States. And its transnational platform not only diversifies story, voice and analysis but also enables learning through comparative perspectives. In doing so, it demonstrates that gambling studies is more than a health studies specialization in addiction or harm reduction, and that important contributions can be made from critical scholars working in areas such as Indigenous studies, law, archaeology and anthropology, as well as community-based practitioners.

Ruth Herd's essay develops a new paradigm for approaching the politics of gambling and public health in settler-colonial states. Her academic storywork embeds issues that gambling poses for Maori youth within the Waitangi Treaty Claims process. She also highlights the agency of Maori women in shifting the ground on which gambling harms are currently understood and addressed in New Zealand. Gabriel Yanicki revisits early anthropology and archaeological sources to demonstrate the importance of bettor-wager patterns in regulating inter-group relations between nations that were culturally, linguistically and politically diverse yet connected through gambling and warfare. Theodore Gordon explores the limits of recognition of Indigenous sovereignty in the context of tribal casino labor relations in the United States. He demonstrates how the San Manuel decision limited tribes' power over labor in casinos through applying the concept of 'tradition' as a criterion for judgment. Other tribes have subsequently contested this ruling, notwithstanding their support, in some cases, for organized labor more broadly. Gordon argues that continuing resistance and refusal are necessary in the face of a stubborn paradox whereby Indigenous sovereignty's recognition also becomes the ground of its limitation by juridical and political actors.

This special issue also includes the research of experts whose sphere of practice lies outside disciplinary academic contexts. Murry Marshall explains the historical and ongoing significance of Kahnawà:ke Gaming Law which marks its 25th

anniversary this year. He shows how this Mohawk nation on the St Lawrence River near Montreal has practiced its jurisdiction over gaming as an inherent 'Aboriginal right' to support economic growth and to become an early innovator in the online gambling sector. An interview between community practitioner, Sheila Wahsquaonaikezhik and Indigenous scholar, Darrel Manitowabi, presents further insights about the culture and ethics of gambling research, the politics of gambling industries and the everyday practices of Indigenous youth videogamers. Caitlyn Salmon offers a fascinating cultural history of the relationship between gambling and videogames from the mid twentieth century from the perspective of a gamer and digital media professional. Her genealogy of gambling's integration within popular games brings important insights about contemporary videogaming platforms featuring lootboxes and other lucrative devices euphemistically referred to as "surprise mechanics".

To conclude the collection, Sylvia Kairouz offers a short commentary from her position as an academic gambling researcher who has worked on research projects with Indigenous communities in Quebec for many years. Her self-reflexive discussion of the personal and cultural politics of ethical research collaborations powerfully evokes the image of journeying over the bridge that connects Montreal and Kahnawà:ke.

References

- Archibald, J. (2008). *Indigenous storywork: Educating the heart, mind, body, and spirit*. University of British Columbia Press.
- Coulthard, G. S. (2014). *Red skin, white masks: Rejecting the colonial politics of recognition*. Minnesota University Press. [DOI:10.5749/minnesota/9780816679645.001.0001](https://doi.org/10.5749/minnesota/9780816679645.001.0001)
- Culin, Stewart. (1907). Games of the North American Indians. in *Twenty-fourth annual report of the Bureau of American Ethnology, 1902-1903*, 3–809. Bureau of American Ethnology.
- Foucault, M. (2002). *Archaeology of knowledge*. Routledge. (Original work published 1969)
- Gabriel, K. (1996). *Gambler way: Indian gaming in mythology, History and archaeology in North America*. Johnson Books.
- Hilbrecht, M., Baxter, D., Abbott, M., Binde, P., Clark, L., Hodgins, D. C., Manitowabi, D., Quilty, L., Spangberg, J., Volberg, R., Walker, D., & Williams, R. J. (2020). The conceptual framework of harmful gambling: A revised framework for understanding gambling harm. *Journal of Behavioral Addictions* 9(2), 190-205. <https://doi.org/10.1556/2006.2020.00024>
- Hokowhitu, B., (2020). Introduction. In B. Hokowhitu, A. Moreton-Robinson, L. Tuhiwai-Smith, C. Anderson and S. Larkin (Eds.), *Routledge handbook of critical Indigenous studies*. Routledge. Kindle Edition. <https://doi.org/10.4324/9780429440229>
- Lawson, S. (2007). *I've been shot at, what's your excuse?: Lessons from my life*. (Self published by author.)
- Moreton-Robinson, A. (2016). Introduction: Locations of engagement in the first world. In A. Moreton-Robinson (Ed.), *Critical Indigenous studies: Engagements in first world locations*, (pp. 3-16). The University of Arizona Press.
- Saunders, P., Doyle, K. (2021). Gambling interventions in Indigenous communities, from theory to practice: A rapid qualitative review of the literature. *Journal of Gambling Studies* 37, 947-982. <https://doi.org/10.1007/s10899-021-10019-0>
- Simpson, A. (2014). *Mohawk interruptus: Political life across the borders of settler states*. Duke University Press. <https://doi.org/10.1215/9780822376781>
- Williams, R.J., Belanger, Y.D., Leonard, C.A., Stevens, R. M. G., Christensen, D. R., el-Guebaly, N., Hodgins, D. C., & McGrath, D. S. (2021). Indigenous gambling and problem gambling in Canada. *Journal of Gambling Studies*. <https://doi.org/10.1007/s10899-021-10022-5>

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Gambling with the Windigo: Theorizing Indigenous Casinos and Gambling in Canada

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Abstract: The legacy of colonialism in Canada manifests through land dispossession, structural violence and assimilative policies. Casinos are an anomaly emerging in Canada, becoming major economic engines, generating capital for housing, education, health, and language and cultural rejuvenation programs. On the other hand, the literature on Indigenous casinos raises crucial questions about compromised sovereignty, addiction, and neocolonial economic and political entrapment. This article theorises Indigenous casinos as a modern expression of the windigo. In Algonquian oral history, the windigo is a mythic giant cannibal. The underlying meaning of the windigo is the consumption of Indigenous peoples leading to illness and death. One can become a windigo and consume others, and one must always be cautious of this possibility. I propose casinos and Indigenous-provincial gambling revenue agreements are modern-day windigook (plural form of windigo). This framework provides an urgently needed new theorisation of casinos, grounded in Indigenous epistemology and ontology.

Keywords: Indigenous casinos, gambling, windigo, consumption

Windigo: Fabulous giant that lives on human flesh;
a man [sic] that eats human flesh, cannibal.
-Baraga (1992 [1878], p. 418)

Windigos come in different forms today. There are
Other harmful forms of cannibalistic consumption
that destroy lands and people.
-Borrows (2008, p. 226)

Introduction

There is limited theoretical engagement on the issue of Indigenous casinos in Canada, and the situation is comparatively similar in the United States. Furthermore, gambling studies are, for the most part, dominated by biomedical theoretical models focused on addiction, though there is an emergent social and cultural academic engagement (e.g., Nicoll, 2019; Gordon & Reith, 2019; Raylu & Oei, 2004). Approaches to Indigenous gambling studies include, for instance, mythology (e.g., Gabriel, 1996); literary analysis and research on the cultural form of gambling (e.g., Pasquaretta, 2003); sovereignty (Light & Rand, 2005); ethnography and the culture of casino money (e.g., Cattelino, 2008); gambling harm (e.g. Williams, Stevens & Nixon, 2011); neoliberalism (e.g., Manitowabi, 2011a); and historical analysis (Belanger, 2006). In this article, I propose an Indigenous-specific

theory of casinos as modern manifestations of the *windigo*, a cannibalistic animate being in the Algonquian oral tradition. I base this on an anthropological hermeneutical (Bernard, 2011, p. 17) analysis of accounts of the windigo, and in doing so, I compare my interpretation of the windigo with the lived Indigenous community experience with a casino.

In this engagement, I revisit my past research on Ontario's Indigenous casino, a review of the Indigenous gambling revenue agreements in Ontario to the present, and subsequent work on Indigenous state-relations. An Indigenous anthropological approach informs my analysis (Medicine, 2011). I also respond to Ranco's (2006) call to address the lack of "a deep theoretical rumination on what indigenous (anthropological) researchers bring..." (pp. 61-62). Furthermore, Tim Ingold's move beyond ethnography's "study of", to instead embrace "a study

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with" (2011, p. 23, emphasis mine) informs this engagement. In particular, Ingold's approach integrates the experience of life in anthropological knowledge production, and it does not limit insight to fieldwork and cultural descriptions in ethnographies. Thus, to accomplish the objective of this article, I situate my own story of the windigo in the analysis, and I then revisit previous anthropological fieldwork and subsequent research and experience that has expanded my initial engagement with Indigenous casino research in Ontario. Though my focus is Ontario, there is theoretical applicability across Canada given the emergence of Indigenous casinos in Canada and the structural context of colonialism (see Belanger, 2006 for an overview of Indigenous gambling in Canada).

My Own Story of Windigo

During September 13-15, 2019, Wiikwemkoong Unceded Territory on Manitoulin Island, Ontario, my home community, held the Robinson Huron Treaty Gathering: Honouring and Remembering our 1850 Treaty event. I accepted an invitation to present on the social, political and economic context at the time of the land cessions. In preparation for this gathering, I spent time reflecting on the significance of treaties and their contemporary meaning. The evening before my presentation, the idea of windigo came to mind upon reflecting on the land dispossession affecting the Anishinaabek signatories of the 1850 Robinson Huron Treaty and their descendants.

On the day of my presentation, the scheduled outdoor location at Thunderbird Park in Wiikwemkoong shifted indoors at the recreational centre due to projected rain. In my opening, I stated, "I am here because of the windigo," and I immediately caught the attention of community members, chiefs and leaders gathered. I next went on to explain the Anishinaabek way of life that existed at the time of the 1850 Treaty, and I then shared a story of the windigo collected by A. Irving Hallowell in northern Manitoba in the 1930s (Hallowell, 2010, pp. 239-240; 248-249). In this story a hunter is pursued by a windigo that he could hear, but could not see. Fearing for his life, he frantically canoed across a river navigating the sound of the approaching windigo, and he finally escaped it by confronting the being out of desperation. Before reciting the story, I mentioned that in the old days, storytelling of mythic beings such as the windigo would take place in the winter to avoid upsetting the thunder beings (who migrated to the south) and the underwater beings (who were beneath the ice). At the midpoint of my narration, the rain started to fall hard on the roof of the centre, drowning out my voice, and I needed to pause before continuing with my presentation.

After my talk, a young Anishinaabe from another community approached me and shared thoughts on the critical connections between the windigo and colonialism. She mentioned she did not plan to attend the Treaty gathering, but changed her mind the

evening before and participated at the last minute. She remarked she was glad she did and encouraged me to write about the windigo and I promised I would.

The silence of those gathered at my presentation spoke of a comprehension of the windigo. Furthermore, the reception of my story by the youth indicates continuation and geographic adherence of its meaning. Was the timing of the hard rain a random coincidence?

I have chosen to recite this windigo story regardless of the season, since, as I subsequently show, the modern-day windigo is no longer limited to the winter months. Metaphorically, colonialism is a continuous winter for Indigenous peoples in Canada that presents a threat to wellness. In what follows, I review the literature on the windigo and situate the contemporary Indigenous literature on the windigo with past casino research to suggest casinos represent modern-day windigook, possessing animistic qualities that may consume individuals and communities.

Background on the Windigo

The Algonquian concept of a cannibalistic giant who occupies the northern forests is known by varied terminology. This variance is due to differences in dialect, and some examples include wee-tee-ko, wihtikow, witiko and windigo, with the latter being the most common spelling in English print (Smallman, 2014, p. 13). In this article, I retain the original spelling in cited sources, but use windigo as a general reference to all accounts. Brightman (1988) provides the following succinct definition of the windigo:

The noun windigo... .refers to one of a class of anthropophagous monsters, "supernatural" from a non-Algonquian perspective, who exhibit grotesque physical and behavioral abnormalities and possess great spiritual and physical power. Either many or all windigos were once human beings, transformed, usually irreversibly, into their monstrous condition. In some cases the transition was conceived as rapid while in others the condition could be covert and volitionally disguised (p. 337).

The earliest historical record of this being is in 1612 in a Powhatan dictionary (Brightman, 1988, p. 339). In 1638 the Jesuit Paul Le Jeune recorded a narrative of cannibalism in Trois-Rivieres, Quebec (cited in Smallman, 2014, p. 79). Various fur traders collected stories of the windigo (e.g., Thompson, 1962 [1784-1812]; George Nelson, 1988 [1786-1859]), along with early travellers (e.g., Kohl, 1985 [1850]; Henry, 1901 [1809]). The windigo has either been documented or studied in various academic disciplines such as linguistics (Baraga, 1992 [1878]; Rhodes, 1993), history (Carlson, 2009; Smallman, 2014), religious studies (Smith, 1995), and anthropology (e.g., Cooper, 1933; Hallowell, 2010 [1934-1972], Barnouw, 1977; Brightman,

1988) and it has also been examined in interdisciplinary scholarship (e.g., Gercken & Pelletier, 2017).

Anthropologists have used materialist interpretations (see Brightman, 1988 for a review) in theorizing the windigo, arguing it results from starvation and cannibalism and is thus a cultural interpretation of animal resource depletion (e.g., Bishop 1975; Marano, 1982). Others suggest it is a psychiatric disorder known as windigo psychosis, an Algonquian-specific culture-bound syndrome resulting in psychiatric illness-induced cannibalism (e.g., Parker 1960). Waldram (2004) provides a post-structural critique of the windigo as being an anthropological construction of “primitive” peoples.

Indigenous-Centred Windigo Narratives

Academic writing is not the only source of windigo narratives. Nor is it the case that windigo narratives are only historical. In his compilation of legends, renowned contemporary Cree oral historian Louis Bird (2007) devotes seven stories to the witigo. There is continuity in the Indigenous literature on the windigo dating to 1887. Gerald Vizenor (1970) reproduced Anishinaabe stories originally published 1887-1888 in *The Progress*, an all-Anishinaabe White Earth Minnesota publication, including reference to the windigo in a story (1970, p. 137-142). The late Basil Johnston, a contemporary Anishinaabe storyteller, recites weendigo legends, and also provides an interpretation of modern-day windigos. In response to scepticism of the windigo as past fiction, Johnston states, “Actually, the Weendigoes did not die out or disappear; they have only been assimilated and reincarnated as corporations, conglomerates, and multinationals. They’ve even taken on new names, acquired polished manners, and renounced their cravings for raw human flesh in return for more refined viands” (1995, p. 235).

Contemporary Anishinaabe and Cree novelists have reinterpreted the modern windigo as the manifestation of residential school priests who culturally and sexually abused Indigenous students (e.g., Highway, 1999; Metatawabin, 2004), or as a thematic representation of the lived social, political and economic experience resulting from colonialism (Vizenor, 1990 [1978]). Contemporary writing on the windigo also occurs in stories for young readers (e.g., Erdrich, 1999). Pasquaratta (2003, pp. 111-162) provides an analysis of the cultural form of Anishinaabe gambling based on the writings of Erdrich, Johnston and Vizenor that is comparable to my analysis, particularly the connections between gambling and the windigo in Vizenor’s work.

Aside from the literary tradition, there is an emerging academic engagement with the contemporary relevance of the windigo. In the field of Indigenous law, Borrows (2010a, pp. 216-227; 2010b pp. 77-84) positions windigo narratives as evidence of Indigenous jurisprudence in prosecuting those committing harm. Friedland analyses Cree and Anishinaabek wetiko stories as a legal principle

framework in addressing alarming rates of intimate violence and child victimization in Indigenous communities. According to Friedland, “The majority of non-Indigenous reactions to and treatment of the wetiko concept encapsulates the broader colonial issue of forcible dismissal” (2018, p. xvi).

The most recent scholarship that connects with the theoretical argument of this article is the work by Cree community scholar Suzanne Methot (2019). Methot (2019) critiques the anthropological literature on the windigo as being ethnocentric by creating a “mental illness superimposed onto Indigenous cultural practice” (p. 272). In historic times, the windigo reflected the inherent dangers of selfishness, over-consumption and disconnection, illustrating illness. Wellness lies in the balance of individuals and community, while greed and excess compromise well-being (ibid.). The contemporary windigo reflects neoliberal capitalism, environmental destruction and the internal Indigenous lateral violence related to the intergenerational trauma due to colonialism (Methot, 2019, p. 273). For Methot, “Today’s wittigo cannibalizes other people’s souls through sexual abuse, and it eats away at another person’s identity by inflicting emotional abuse. It cannibalizes the strength of communities by engaging in toxic communication patterns... Today, the wittigo craves alcohol and empty sex to numb the pain and fill the gap created by a lack of love and belonging. The wittigo destroys connection: to others, and to oneself” (Methot, 2019, p. 274).

Anishinaabek Gambling and Windigo Narratives

In historic times, the Anishinaabek practised two gaming types: chance and skill (Densmore, 1979 [1929]). An example of a chance game is Makizinataadiwin, or the moccasin game, being a game of chance involving guessing the location of an object under moccasins. Baagaadowewin is an example of a game now known as the athletic team-based game of lacrosse (ibid., pp. 114-119). In the moccasin game, Copway (2001 [1850], p. 48) documented that gambling took place with guns, traps, clothes, tobacco and pipes being wagered. In Vizenor’s (1970) text, Theodore Beaulieu (ca. 1887-1888) recited the trickster legend “manabozho and the gambler”. In this legend, manabozho (the compassionate trickster) is challenged by the gambler nita ataged (evil gambler) to pagessewin (the dish game), which is a dice game also known as the plate, bowl or dish game (cf. Densmore 1979, p. 115). The wager of the game is declared by nita ataged as follows,

Seek me and whoever enters my lodge must gamble. Remember, there is but one forfeit I demand of those who gamble with me and lose, and that forfeit is life. I keep the scalps and ears and hands, the rest of the body I give to my friends the windigo and their spirits I consign to niba gisiss (the sleeping sun or darkness). I have

spoken. Now we will play (in Vizenor 1970, p. 148).

In the game, nita ataged plays first with the game's objective to have the figurines, carved in the form of stages of life of man, stand erect in a bowl with a toss. After nita ataged achieves success with several winning plays, on the last match, with the aid of the wind, manabozho whistles, causing nita ataged's figurines to land non-erect thus resulting in a lost game. The legend ends with manabozho next taking a turn, and the story ends, without a known outcome (ibid., pp. 148-149).

In contrasting historic Anishinaabe gambling with the present casinos, Vizenor relates the beat of a drum and song accompanied games of chance such as the moccasin game and some of the best tribal songs derived from dreams and visions. In contrast, there are no traditional songs played alongside modern electronic games, and narratives of chance are limited to "casino stories" (Vizenor, 1994, p. 142). In critiquing casinos, Vizenor states,

Casinos are the wages of wealth, morality, and sovereignty, but tribal courage and an international presence could secure more than the envies of casino riches and the limited sovereignty determined by federal courts and the government. Casino avarice with no moral traditions is a mean measure of tribal wisdom (p. 148).

Casino Rama and Indigenous Gambling Revenue Agreements 1994-2020

This section revisits my original research with an updated analysis of the Ontario casino revenue agreements. The thrust of this research takes place at Casino Rama, initially, "Ontario's only Aboriginally-owned casino" from the period 1996-2011 (Manitowabi, 2011a) and now marketed as "Ontario's only First Nations resort casino" (Casino Rama 2020, para. 1). The casino emerged in response to the success of Indigenous casinos in the U.S. and the desire of Ontario First Nations to open casinos of their own. Upon learning of these intentions, the Province of Ontario negotiated with the Chiefs of Ontario, a political advocacy organization for First Nations in the Province, on the terms of a First Nations casino. The plan was that all First Nations in the Province would benefit from the revenue of this casino. It would furthermore serve an economic development mechanism for First Nations seeking employment at the casino. In 1994, The Chippewas of Rama were the successful bidders to host the casino and Casino Rama opened in 1996. The initial six years of the casino were tumultuous; it experienced a construction delay when a new conservative provincial government came to power in 1995 and imposed a 20%-win tax on the casino. Furthermore, Metis and non-Status Indigenous communities litigated for a share of the revenue, and the Chippewas of Rama

and Ontario First Nations disputed over casino revenues (see Manitowabi, 2011a, pp. 257-262 for this history). To situate my theoretical argument, I revisit part of this history below.

In the early stages of the casino, non-Status Indigenous and Metis Indigenous groups went to court for a portion of the revenues, and in 1996, an Ontario court ruled they had a right to casino revenues (Lovelace v. Ontario, 2000, para. 34). The case was appealed in favour of Ontario First Nations in 1997 on the basis that the casino was intended for on-reserve First Nations to address social and economic conditions (ibid., para. 49). It then went to the Supreme Court of Canada, which agreed with the Court of Appeal (ibid., para. 112).

A stakeholder emerging from the creation of Casino Rama is the Ontario First Nations (excluding the Chippewas of Rama). In 2000, under the name "Ontario First Nations Limited Partnership," the Ontario First Nations entered into an agreement with the Province of Ontario, the Ontario Lottery and Gaming Corporation (a provincial crown agency) and the Mnjikaning First Nation (now known as the Chippewas of Rama) for a share of accumulated net revenues (since opening) and ongoing net revenues from Casino Rama. Until that point, the Metis Nation litigation had stalled revenue distribution. The basis of the revenue dispute stemmed from the original proposal to host the casino, submitted by the Chippewas of Rama. During the first five years of operations, the Chippewas of Rama would retain 35% of net revenues (to address infrastructure and community investments required for the casino) while Ontario First Nations would receive 65% for economic development, health, education, and community and cultural initiatives. After that, a new agreement would be sought (Casino Rama Revenue Agreement, 2000). In 2001, Ontario First Nations voted against the Chippewas of Rama retaining the 35%. In response, the Chippewas of Rama litigated against the Chiefs and Province to maintain the 35% in perpetuity (Manitowabi, 2011a, p. 260). The initial revenue agreement expired on July 31, 2001, and the Chippewas of Rama's 35% dispersal froze pending their legal case. After another disagreement regarding payment of a hotel loan, Ontario First Nations revenue froze pending resolution of the disagreement. In 2008, Ontario First Nations (under the new name Ontario First Nations Limited Partnership 2008, or OFNLP2008) and the Chippewas of Rama struck a new deal. In exchange for ending the legal case for the 20%-win tax, the Province proposed a new agreement where Ontario First Nations would receive 1.7% of province-wide gaming revenues and non-gaming revenues such as hotel and food services for 25 years. Thereafter, a new deal would take place, and the agreement also included an appointed representative of the OFNLP2008 to the Board of Directors of the OLG. The Province would furthermore enter into a separate agreement with the Chippewas of Rama (ibid., p. 261). The Chippewas of Rama signed a

deal in 2009 for 20 years beginning August 1, 2011. As part of this agreement, Rama receives whichever is the greater from 1.9% of gross revenues, or \$5.5 million (adjusted annually to Consumer Price Index) (OLG 2019, p. 44-45).

The new agreement did not signal the end of disputes with the OLG. In 2014, the OLG introduced a gambling modernization plan. A significant component of this plan included reconfiguring the gambling landscape by closing slots at select racetracks, creating new casinos, expanding lottery ticket sales, implementing digital gaming (e.g., electronic bingo, casino-style Internet gaming) and expanding private sector delivery of lotteries and gaming (Office of the Auditor General of Ontario, 2014, p. 10-11). At the same time, the Province stalled in appointing a member of the OFNLP2008 to the Board (Miller 2015). The OFNLP2008 contend the stalling was a calculated move to avoid an OFNLP2008 voice at the table during the design of the modernization plan (ibid.). The OFNLP2008 went into arbitration with the OLG, and in 2015, a panel of three Superior Court Justices awarded the OFNLP2008 a seat on the OLG Board (ibid.).

Aside from the Board seat, another issue arose with the modernization plan. In addition to 1.7% of gross provincial gaming revenues from on-line games, sports games, instant games, bingo, slot machines and table games at casinos and racetracks, the 2008 revenue agreement also included non-gaming profits from hotels, food, beverages and other services provided to patrons on a complimentary basis (OFNLP2008 v. OLG, 2020, para. 23). The OLG's modernization plan changed the business model of provincial gambling, transferring non-gaming revenues to private sector operators without consulting the OFNLP2008, despite the OFNLP2008's request to take part in consultations in 2012 (ibid., para. 24-25). In 2013, the OLG decided to stop sharing non-gaming revenue with Ontario First Nations (ibid., para. 34). It took until 2016 for the OFNLP2008 to become aware of this change and this was made possible only after reviewing an OLG financial statement in the same year (2016) that the non-gaming revenue ceased (ibid., para. 23, 47). In 2019, an arbitration panel ruled the OLG did not have a right to discontinue sharing non-gaming revenue, and thus must honour the agreement. The OLG appealed this decision, and in 2020, lost their appeal (ibid.).

“The Casino is Buying all the Houses”: Hermeneutics in Indigenous Casino Research

In my earlier work (Manitowabi, 2007; Manitowabi, 2011a), I described how the quietness of the Chippewas of Rama community has disappeared, in part because casino development resulted in property and homes near the casino being purchased. Community members relocated their homes afar from the casino seeking a return of privacy. While in Rama, I spent time with an Elder who continued to practice the old ways of the community. He still hunted, fished, collected medicines

and shared the oral history of the place to those with an interest. I drove the Elder around in the community one day while he provided an illustrated oral history of Rama, pointing out who once lived here and there, and how the land looked where the casino is located. After his narrative, he stated, “the casino is buying all the houses” (in Manitowabi, 2007, p. 59). In this statement, the casino is an animate being or force that is consuming homes, community space and causing relocations of community members (I will return to an analysis of this in the discussion).

The structure of Casino Rama lies at the address: 5899 Rama Road, on the site of a former vacant field in the community. In the original planning of the casino, the current location was temporary: a waterfront location was the originally envisioned permanent site. In this context, I had the opportunity to attend community planning meetings. In one such instance, an economic consultant presented on the economic benefits and necessity of moving to the waterfront resort development stage, demonstrating evidence of this necessity based on the competitive nature of casino gambling in Ontario and the optimistic financial forecast of a waterfront location. During the presentation, the energy of the audience took a downturn based on my observations of body language and facial expression, and it was clear to me that members were upset with the presentation. During the question-and-answer period, the consultant received harsh questions on the recreational and environmental impact of waterfront development (Manitowabi, 2007, p. 60). Ultimately the waterfront casino development did not take place, and the casino remains in its current location.

During my time in Rama, I observed the community negotiating the casino. The casino operates like a gambling factory. There is constant traffic destined to the casino, mostly from Toronto where buses transport gamblers to the casino. At the time, I lived in the city of Orillia (a 15-minute drive from Rama), beside the busiest road to the casino, and I observed an assembly line of buses destined to the casino. This mechanical experience is common to casino patrons, who travel to the casino, and then return, with a select few stopping at the Rama gas station or stores. I still go periodically to Rama, and I observe this continuing pattern of transit in 2020. However, there is at present relative quietness, due to the temporary closure of the casino as a result of the COVID-19 global pandemic that has paralyzed the Canadian economy and led to public health measures limiting public gatherings (Powless & Duric, 2020).

Inside the community, some frequent the casino and while others do not, expressing concerns about harmful gambling. One community member shared with me that he researched community casino use and found that, while an estimated 75% of the population do not use the casino, there are silent addictions (Manitowabi, 2007, p. 58). During my research, I observed community members engaged in harmful

gambling while others avoided the casino altogether. I once recalled a community member chastise another about too much gambling at the casino, and I also observed a community member attend the casino regularly, without being chastised.

Windigo as Indigenous Consumption: Discussion

Reith and Gordon (2019) lament that most gambling research is dominated by psychology, public health, and in economic modelling that examines human behaviour, addiction and rational “action”. Though this is the case, the authors acknowledge there is a gradual shift with socio-cultural approaches emerging (para. 1). In their analysis, Reith and Gordon (2019) call for a social practice theory approach since,

Practice theory can help foster a shift in gambling research from a focus on gambling as related to individual choice, or as entirely configured by political, economic, and social structures. Practice theory provides a way to acknowledge both structure and agency in gambling which acknowledges the body, mental activities, discourses, materials, social norms, and social structures (para. 24).

In my initial theoretical engagement with the casino, I positioned it as both a provincial strategy to contain the proliferation of Indigenous casinos in Ontario, and a neoliberal solution to address Indigenous poverty by creating economic opportunities and directing casino revenues to five areas: health, culture, economic development, community development and education (Manitowabi, 2011a). In subsequent analysis, I discussed the experiences of Indigenous migrant workers at the casino within the context of neoliberalism and symbolic capital, arguing that life histories influence casino employment success (Manitowabi, 2011b). More recently, I engaged in a critical analysis of the cultural representation at the casino (Manitowabi, 2017), showing that the artistic imagery is touristic, intended to market Indigeneity for commercial purposes. In contrast, the Indigenous practice of culture is invisible to the outside, known as *bimaadiziwin*, a word meaning “a holistic, healthy way of life”. I based this on a behavioural analysis of the cultural practice of everyday life (*ibid.*). The following literature review builds upon this most recent work, and I revisit fieldwork experiences that inform a new theoretical engagement with my earlier findings.

In earlier work, I engaged with Richard White’s (1991) concept of middle ground and with the literature on neoliberalism. My then argument ultimately situated the Indigenous casino as representing a “partial middle ground”, neither serving state domination of Indigenous peoples nor Indigenous emancipation from colonialism. In retrospect, my earlier work has been framed within a Western hegemonic theoretical lens, privileging dominant, non-Indigenous theoretical,

analytical frameworks such as neoliberalism, habitus (Bourdieu, 2004[1977]) and middle ground. My initial Indigenous theoretical engagement began with a focus on Anishinaabe *bimaadiziwin* (Manitowabi, 2017), and I primarily engaged with neoliberalism, habitus, and middle ground as bridging frameworks connecting *bimaadiziwin*. At present, I do not entirely abandon social science theory, but I more explicitly shift my approach to Indigenous anthropology in the tradition of the work of Beatrice Medicine (2011), and I respond to Darren Ranco’s (2006) call for a theoretical engagement in Indigenous anthropology. Thus, anthropology for me is a disciplinary tool used to reveal a theory of Indigenous casinos, and Indigenous anthropology integrates an Indigenous standpoint. I am not discounting a non-Indigenous approach since I have already demonstrated the applicability of these approaches. Instead, I am expanding theoretical knowledge in casino studies by reflecting the Indigenous-centred standpoint.

Reith and Gordon (2019) engage with Bourdieu’s concept of habitus, and his understanding of how culture and history shape social action (para. 33). I similarly positioned *bimaadiziwin* as an Indigenous habitus, or social practice, evidenced by investments made in education, language, heritage, and recreation, all taking place through the guidance of Elders, showing persistence in an Indigenous knowledge system (Manitowabi, 2011a; 2017). Thus, my work has increasingly centred on Indigenous cultural frameworks, e.g., a stronger focus on *bimaadiziwin*, in gambling research (e.g., Manitowabi, 2017), and this brings me back to the relevance of windigo.

In windigo narratives, central to the message is the transformation of a community member leading to the consumption of others. This transformation is inherently destructive to the individual, and the individual eventually consumes community members, leading to their destruction. It is possible to heal windigos, though the dominant outcome is the death of the windigo. A literal focus on cannibalism dominates most windigo narrative analyses. There are researchers, mostly Indigenous, who occupy a minority position in the windigo research who critique this dominant research as a Western fetishizing gaze of constructed primitive Indigenous behaviour (e.g., Methot 2019; Podruchny, 2004; Waldram, 2004). On the other hand, Indigenous writers and researchers focus on the symbolism of the windigo as a teaching narrative of the adverse effects of selfish behaviour manifested through capitalism and environmental destruction (e.g., Johnson, 1995), and colonially induced trauma and lateral and sexual violence (e.g., Friedland, 2018; Methot, 2019). Indigenous literary scholars have linked casino imagery with the windigo, for example, as cited earlier, in Vizenor’s recitation of the “manabozho and the gambler” (Vizenor, 1970, p. 147).

In a contribution honouring the work of Gerald Vizenor, Joe Lockard (2008) examines Vizenor’s work

specific to the windigo and the concept of survivance (survival through resistance). The modern windigo represents how “Colonial violence sought to negate native consciousness in all its continental variety as well as ensuring submission to displacement, exile, and extermination” (Lockard, 2008, p. 209). For Lockard, Vizenor’s concept of the windigo is a social and mythic “invisible beast that feeds off those who fall under the spell of such enticing purist deliriums of identity” (ibid., p. 210). Lockard, for the most part, focuses on identity, though engages with the themes of evil and destruction of peoples in Vizenor’s (1984, pp. 4-6) updated retelling of “nanabozho and the gambler”.

According to Lockard (2008, p. 209), the modern windigo is invisible and is a “destructive cannibalistic force”. In applying the concept of a modern colonial social windigo to select casino literature, there is a case to be made for an Indigenous-specific articulation of consumption. By way of comparison, Reith (2007) engages with Bauman’s “consumption ethic”, moving beyond the view of Western societies as dominated by economic production. In this model, gambling is a consumption habit of modern life, and ethical behaviour lies in self-control, and the lack of it results in problem gambling (see Cosgrave, 2009 for an exposition of gaming as “risky consumption”). For scholars such as Reith and Cosgrave, the focus is the gambler’s consumption of gambling. Within an Indigenous framework, gambling is manifested through the legacy of colonial displacement of Indigenous gambling such as the moccasin game and lacrosse. Economic and political aspirations through casino development and expansion are the potential consumers of Indigenous peoples. The word potential prefaces consumption because it is not inevitable. In this positioning of casinos as modern windigos, I emphasize their transformative aspect. In historic windigo narratives, the Indigenous person is a contributing member of the family and community, and the transformation into a windigo is one that is disruptive and destructive. It consumes the individual, and the individual then consumes others.

As stated earlier, in the words of a Rama Elder, “the casino is buying all the houses.” This statement in effect classifies the casino as a being, or an invisible force that consumes homes and territory, and the casino’s hunger for development is presented in an attempt to eat more land. Furthermore, the casino has the potential to destroy individuals in the community through harmful gambling behaviours.

At the political level, the casino is a transformative shapeshifter, originally envisioned as a mechanism to heal and restore communities through investments in job creation, education, health, and cultural programming. During 1996-2011, the casino was either

generating divisions between Indigenous groups and between Indigenous groups and the Province or giving capital for community services, with revenue dispersal initially being delayed due to litigation and then frozen due to disputes over revenue and a hotel loan. In the current First Nations gambling revenue agreement (circa 2011-2020), the casino revenue is no longer only limited to Casino Rama but now includes all provincial gambling. Despite this apparent goodwill, the Province developed a new modernization plan, delayed the appointment of a First Nations representative to the OLG Board, and attempted to remove non-gaming revenue transfers to First Nations. This ill-will signals the consistency of the transformative nature of gambling and casinos. This problematic arrangement continues at the time of writing: the Province of Ontario is faced with a global COVID-19 pandemic lockdown and casinos are closed, and gambling revenue transfers to First Nations will significantly decrease until the reopening of casinos (Powless & Duric, 2020).

Thus, within an Indigenous theoretical framework, Indigenous concepts such as the windigo still have relevance today. This windigo manifests through the colonial environment in which Indigenous peoples in Canada are now living. Gambling and casinos take place within this environment and are thus manifestations of the inner workings of structural colonialism. The history of Casino Rama and the First Nations gambling revenue agreements demonstrates the restrictive permissiveness of casinos and gambling in the lives of Indigenous peoples. The casino and revenues are permissive by addressing social and economic conditions, but at other times the casino shapeshifts into a restrictive and disruptive entity. This disruption includes stalled development in the early stages of the casino building, denying access to capital to off-reserve, non-status and Metis Indigenous peoples, the imposition of a 20%-win tax, and manipulations relating to the current revenue agreement. At the Chippewas of Rama community level, it has permitted the development of community infrastructures such as new roads, a new school, a new recreational facility, an Elders long term care home, and new businesses and employment opportunities (see Manitowabi, 2011a). It has also been restrictive and disruptive by consuming homes and the landscape, shifting homes away from the casino, resulting in harmful gambling for some, and leading to decreased revenues (post initial agreement). With the new gambling modernization plan, an expansion of provincial gambling will likely curtail Chippewas of Rama revenue.

A commonality of historic windigo narratives is the association with wintertime and human adversity through the potential of starvation (e.g., Brightman, 1988, Cooper, 1934, Hallowell, 2010). I suggested that colonialism represents a continuous winter for Indigenous peoples and this manifests through political relationships with state agents such as the OLG. The casino is an animate force in Indigenous communities

that brings visibility to the invisibility of the modern windigo and thus shows the potential for harm in community and individual relations at the localized level. Like windigo narratives of the past, confronting a windigo does not lead to an inevitable harm, but its avoidance requires careful navigation.

Conclusion

In this article, I have responded to Ranco's (2006) call for Indigenous anthropologists to "theorize within" and I have done so by engaging in the hermeneutics of windigo narratives, Casino Rama, and First Nations gambling research. Through this approach, I have also responded to Ingold's (2014) call for anthropology to move beyond descriptive ethnographies and integrate the knowledge of the everyday into anthropological knowledge production. In doing so, I have engaged with the life experience of windigo storytelling, alongside theoretical engagement with the Indigenous literary tradition of the windigo in the past and present, and comparative analysis of gambling research.

I conclude this article by returning in greater detail to the windigo story collected by A. Irving Hallowell that I shared in Wiikwemkoong on September 13, 2019. Hallowell (2010 [1938]) related a tale told by an "old man" of a pursuing windigo. The man is hunting muskrats in the spring, in an area where the lake is still frozen, but the river is open. At darkness, the man makes a fire to have supper, and he then hears someone passing across the river and the sound of branches cracking. The man then gets in his canoe and paddles away from the noise. He then hears a noise in the air, and a big stick is thrown, missing him. After arriving at the opposite side of the river, the person is already there. The man returns across the river, canoeing all night to avoid the person. Near the morning, he reaches a high rock to rest and sleep, and during the following evening, again the person returns, and the man paddles off once again. At this point, the man wonders how to get away, and he decides to confront the being. He grabs his axe and gun, venturing in the direction of the sounds. Tables turn, and the person retreats, crashing through the forest and then onto the ice. In a weak spot, the person falls through the ice and the man hears a loud yell. He then returns to hunting, and attempts to go to a camp close by. He finds it deserted since the previous occupants heard the being and left, frightened (ibid., pp. 239-240). In this paraphrased retelling of a story collected by Hallowell, the windigo being is not observed in detail, though it makes sounds and pursues the man, and from the perspective of the man, this event is real.

After reciting this story during my Wiikwemkoong presentation, I raised the question to the audience, did a real windigo pursue the man despite it not being visible? Was it by chance something else and interpreted as a windigo? Was the story fiction? I then made a connection with treaties and the colonially-induced consumption of community members by

lateral violence, addictions, trauma, and shame. I then asked, are these behaviours modern-day windigook? I ended my talk by emphasizing the possibility of windigo-like consumption, not the inevitability of this consumption, and the need to address these issues as consequences of the land cessions resulting from the Treaty of 1850.

All the while, the rain continued during my presentation. It stayed on my way home and through a previously planned trip to southern Ontario that evening (I live in northeastern Ontario). This trip coincidentally took me through Orillia, driving near Casino Rama. The rain continued, even making road visibility difficult, and I had to slow down numerous times. I nevertheless made it to my destination later than expected due to the weather. The next day, I awoke to a calm and sunny day.

References

- Baraga, F. (1992). *A dictionary of the Ojibway language*. Minnesota Historical Society (Originally published in 1878).
- Barnouw, V. (1977). *Wisconsin Chippewa myths & tales: And their relations to Chippewa life*. University of Wisconsin Press.
- Belanger, Y. (2006). *Gambling with the future: The evolution of Aboriginal gaming in Canada*. Purich Publishing Limited.
- Bernard, H. R. (2011). *Research methods in anthropology: Qualitative and quantitative approaches*. Alta Mira.
- Bird, L. (2007). *The Spirit lives in the mind: Omushkego stories, lives, and dreams*. McGill-Queen's University Press.
- Borrows, J. (2010a). *Drawing out law: A Spirit's guide*. University of Toronto Press.
- Borrows, J. (2010b). *Canada's Indigenous constitution*. University of Toronto Press.
- Bourdieu, P. (2004). *Outline of a theory of practice*. Cambridge University Press (Originally published in 1977).
- Brightman, R. (1988). The Windigo in the material world. *Ethnohistory* 35(4), 337-379. <https://doi.org/10.2307/482140>
- Brown, J. & Brightman, R. (1988). "The orders of the dreamed": George Nelson on Cree and Northern Ojibwa religion and myth, 1823. University of Winnipeg Press.
- Carlson, N. (2009). Reviving Witiko (Windigo): An ethnohistory of "cannibal monsters" in the Athabasca District of Northern Alberta, 1878-1910. *Ethnohistory* 56(3): 355-394.
- Casino Rama. (2020). *About Casino Rama*. Retrieved July 29, 2020, from <https://www.casinorama.com/About-Casino-Rama/About-Us.aspx>.
- Casino Rama Revenue Agreement. (2000, July 29). <https://collections.ola.org/mon/12000/221318.pdf>
- Cattellino, J. (2008). *High stakes: Florida Seminole gaming and sovereignty*. Duke University Press.
- Cooper, J. (1933). The Cree Witiko psychosis. *Primitive Man* 6:20-24.
- Copway, G. (2001). *The traditional history and characteristic sketches of the Ojibway Nation*. Prospero Books (Originally published in 1850).
- Cosgrave, J. (2009). Governing the gambling citizen: The state, consumption, and risk. In J. Cosgrave & T. Klassen (Eds.), *Casino state: Legalized gambling in Canada* (pp. 46-66). University of Toronto Press.
- Densmore, F. (1979). *Chippewa customs*. Minnesota Historical Society (Originally published in 1929).
- Erdrich, L. (1999). *The birchbark house*. Scholastic.

- Gabriel, K. (1996). *Gambler way: Indian gaming in mythology, history and archaeology in North America*. Johnson Books.
- Gercken, B. & Pelletier, (Eds.). (2017). *Gambling on authenticity: Gaming, the noble savage, and the not-so-new Indian*. University of Manitoba Press.
- Gordon, R., & Reith, G. (2019). Gambling as social practice: a complementary approach for reducing harm? *Harm Reduction Journal* 16(1). <https://doi.org/10.1186/s12954-019-0342-2>
- Friedland, H. (2018). *The Wetiko legal principles: Cree and Anishinabek responses to violence and victimization*. University of Toronto Press.
- Hallowell, A. I. (2010). *Contributions to Ojibwe studies: Essays, 1934-1972*, J. Brown & S. Gray (Eds.). University of Nebraska Press.
- Henry, A. (1901). *Travels and adventures in Canada and the Indian Territories between the years 1760 and 1776*. J. Bain (Ed.). Little Brown (Originally published in 1809).
- Highway, T. (1999). *Kiss of the fur queen: A novel*. Doubleday Canada.
- Ingold, T. (2011). *Being alive: Essays on movement, knowledge and description*. Routledge.
- Ingold, T. (2014). That's enough about ethnography! *H.A.U.: Journal of Ethnographic Theory* 4(1), 383-395. <http://dx.doi.org/10.14318/hau4.1.021>
- Johnston, B. (1995). *The Manitous: The supernatural world of the Ojibway*. HarperCollins.
- Kohl, J. G. (1985). *Kitchi Gami: Life among the Lake Superior Ojibway*. Minnesota Historical Society (Originally published in 1850).
- Light, A. & Rand, K. (2005). *Indian gaming and tribal sovereignty: The casino compromise*. University of Kansas Press.
- Lockard, J. (2008). Facing the Wiindigoo: Gerald Vizenor and Primo Levi, In G. Vizenor (Ed.), *Survivance: Narratives of Native Presence* (pp. 209-219). University of Nebraska Press.
- Manitowabi, D. (2017). Masking Anishinaabe Bimaadiziwin: Uncovering cultural representations at Casino Rama. In B. Gercken & Pelletier (Eds.), *Gambling on authenticity: Gaming, the noble savage, and the not-so-new Indian* (pp. 135-158). University of Manitoba Press.
- Manitowabi, D. (2011a). Casino Rama: First Nations self-determination, neoliberal solution or partial middle ground? In Y. Belanger (Ed.), *First Nations gaming in Canada* (pp. 255-278). University of Manitoba Press.
- Manitowabi, D. (2011b). Neoliberalism and the urban Aboriginal experience: A Casino Rama case study. In H. Howard & Proulx, C. (Eds.), *Aboriginal peoples in Canadian cities: Transformations and continuities* (pp. 109-122). Wilfred University Press.
- Manitowabi, D. (2007). *From fish weirs to casino: Negotiating neoliberalism at Mnjikaning*. Unpublished PhD. Diss., University of Toronto.
- Marano, L. (1982). Windigo psychosis: The anatomy of an Emic-Etic confusion. *Current Anthropology* 23, 385-412. <https://doi.org/10.1086/202868>
- Medicine, B. (2011). *Learning to be an anthropologist & remaining "Native": Selected writings, edited with Sue-Ellen Jacobs*. University of Illinois Press.
- Metatawabin, E. (2004). *Hanaway*. Trafford Publishing.
- Methot, S. (2019). *Legacy: Trauma, story, and Indigenous healing*. E.C.W. Press.
- Miller, A. (2015, May 16). First Nations win seven-year battle for a seat on the Ontario Lottery and Gaming board. *Toronto Star*. <https://www.thestar.com/news/canada/2015/05/16/first-nations-win-seven-year-battle-for-a-seat-on-the-ontario-lottery-and-gaming-board.html>
- Nicoll, F. (2019). *Gambling in everyday life: Spaces, moments and products of enjoyment*. Routledge.
- Office of the Auditor General of Ontario. (2014). *Ontario Lottery and Gaming Corporation's modernization plan: Special report April 2014*. Toronto: Queen's Printer for Ontario. https://www.auditor.on.ca/en/content/specialreports/specialreports/OLGC_modernizationplan_en.pdf
- Parker, S. (1960). The Witiko psychosis in the context of Ojibwa personality and culture. *American Anthropologist* 62, 603-23. <https://doi.org/10.1525/aa.1960.62.4.02a00050>
- Pasquretta, P. (2003). *Gambling and survival in Native North America*. University of Arizona Press.
- Podruchny, C. (2004). Werewolves and Windigos: Narratives of cannibal monsters in French Canadian Voyageur oral tradition. *Ethnohistory* 51(4): 677-700. <https://doi.org/10.1215/00141801-51-4-677>
- Powless, L. & Duric, D. (2020, July 8). Ontario First Nations face major revenue loss with casino closures. *Turtle Island News*. Retrieved July 23, 2020, from <https://theturtleislandnews.com/index.php/2020/07/08/ontario-first-nations-face-major-revenue-loss-with-casino-closures/>
- Raylu, N. & Po Oei, T. (2004). Role of culture in gambling and problem gambling. *Clinical Psychology Review* 23, 1087-1114. <https://doi.org/10.1016/j.cpr.2003.09.005>
- Ranco, D. (2006). Toward a Native anthropology: Hermeneutics, hunting stories, and theorizing from within. *Wicazo Sa Review* 21(2), 61-78.
- Reith, G. (2007). Gambling and the Contradictions of Consumption: A Genealogy of the "Pathological" Subject. *American Behavioural Scientist* 51(1), 33-55. <https://doi.org/10.1177/0002764207304856>
- Rhodes, R. (1993). *Eastern Ojibwa-Chippewa-Ottawa dictionary*. Mouton de Gruyter.
- Smallman, S. (2014). *Dangerous spirits: The Windigo in myth and history*. Heritage House.
- Smith, T. (1995). *The Island of the Anishnaabeg: Thunderers and water monsters in the traditional Ojibwe life-world*. University of Idaho Press.
- Thompson, D. (1962). *David Thompson's narrative, 1784-1812*. Richard Glover (Ed.). Champlain society (Originally published 1784-1812).
- Vizenor, G. (1970). *Anishinabe Adisokan*. The Nodin Press.
- Vizenor, G. (1990). *Bearheart: The heirship chronicles*. University of Minneapolis Press (Originally published in 1978).
- Vizenor, G. (1994). *Manifest manners: Narratives on postindian Survivance*. University of Nebraska Press.
- Vizenor, G. (1984). *The People named Chippewa: Narrative histories*. University of Minnesota Press.
- Waldram, J. (2004). *Revenge of the Windigo: The construction of the mind and mental health of North American Aboriginal peoples*. University of Toronto Press.
- White, R. (1991). *The middle ground: Indians, empires, and republics in the Great Lakes region, 1650-1815*. Cambridge University Press.
- Williams, R, Stevens, R., & Nixon, G. (2011). Gambling and problem gambling in North American Aboriginal peoples. In Y. Belanger (Ed.), *First Nations gaming in Canada* (pp. 166-194). University of Manitoba Press.

Legal Sources

Lovelace v. Ontario. (2000). 1. S.C.R. 950. Retrieved July 29, 2020, from <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1800/index.do>

Ontario First Nations (2008) Limited Partnership v. Ontario Lottery and Gaming Corporation. (2020). ONSC 1516. Retrieved August 5, 2020, from <https://www.canlii.org/en/on/onsc/doc/2020/2020onsc1516/20onsc1516.pdf>

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Gambling in Ancient North America: The Bettor-wager Pattern in Continental Perspective

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Abstract: Gambling in ancient North America was primarily an intergroup activity. This position as a liminal practice, taking place on territorial frontiers and at large intertribal gatherings, puts gambling and the many traditional games with which it is associated on the very forefront of cultural transmission and knowledge exchange. The result is a shared fluency of gambling games that transcends barriers of language and ethnicity. Evidence of common methods and materials allows ancient, region-spanning social networks to be identified. Subtle variations demonstrate a repeated and ongoing negotiation between groups over time as objectives and participants change, with this evolution of gaming practices continuing to the present day. The freedom to adapt to changing conditions, contrasted with notions of a static “traditional” past, is not just a matter of sovereignty relating to Indigenous gambling games. It is a reflection of the nature of Indigenous gambling as it has always been.

Keywords: Indigenous gambling, archaeology, ethnohistory, North America

Introduction

The Indigenous practice of gambling in pre-contact North America was primarily an intergroup activity. This was the conclusion made by the late Warren DeBoer (d. May 24, 2020), one of the few ethnohistorians to have seriously considered the archaeological implications of a near-universal, continent-spanning association between gambling and various traditional games. Citing ethnographic and historic accounts from every corner of the continent, DeBoer (2001, pp. 233–35) demonstrated the ubiquity of a common theme where gambling between members of the same close-knit social group does not make sense, and socially distant gambling partners are preferred. Nation by nation, the parameters vary, but the illogic of in-group gambling is typified by views from the Klallam, where “gambling games are always played with outsiders, for people in a village do not like to take each other’s money” (Gunther, 1927, p. 273), and from the Ndee (Western Apache), where betting against members of the same clan would be “like winning from yourself” (Goodwin, 1942, p. 375; see also Beals, 1933; Brunton, 1998; Desmond, 1952; Landes, 1971; Parsons, 1996; Smith,

1940; Spier, 1938; Vennum, 1994; Yanicki, 2014). More contemporary objections to taking winnings at other community members’ expense, as voiced by Diné (Navajo) elders and traditionalists who cautioned against building a tribal casino in the 1990s (Schwarz, 2012, p. 536), and those who observe a “cannibalistic” aspect to profiting from gambling excess (Manitowabi, this issue), reflect ancient and widespread concerns.

DeBoer is not the only scholar to have remarked on the intertribal character of gambling in ancient North America, nor on its extent. In a global cross-cultural study, economist Frederic Pryor (1976) identified “location in North America” as one of just four independent variables, along with the presence of commercial money, presence of socioeconomic inequality, and absence of reliance on animal husbandry, that together could strongly predict the economic significance of gambling in non- or pre-capitalist tribal societies worldwide. Drawing from the observations of DeBoer, Pryor, and many others, social anthropologist Per Binde (2005) identified North America, with the possible exception of its Arctic zone, as a “continent of gamblers” (p. 4), made all the more

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extraordinary by a relatively patchy distribution of gambling societies around the rest of the world, including in adjoining Central and South America.

Binde's (2005, p. 20) hypothesis that the intertribal character of Indigenous North American gambling can explain its prevalence and intensity serves as the launching-off point for this article. While in essence correct, the statement is rooted in a modest oversimplification, for not *all* gambling was intertribal. Counterexamples do, of course, exist, and it is the exceptions that prove the true nature of the rule. A more nuanced gradient of gambling intensity tied to the social distance between competitors helps establish gambling's important role in building ties and moderating intergroup competition (Flannery & Cooper, 1946; Sahlins, 1972; Yanicki, 2017, 2019; Yanicki & Ives, 2017).

In this paper, I will review how a preferential situatedness on the frontiers of societal interaction, wherever groups of people meet, has important implications for how the closely intertwined practices of gaming (here defined as the act of playing a competitive game) and gambling (the act of wagering on a game's outcome) are created and maintained. My approach involves a survey of the archaeological, historical, and cultural anthropological literature on Indigenous gambling in North America. One predicted outcome of gaming between competitors from different backgrounds, who do not necessarily even speak the same language, is that the mechanics of gameplay should be negotiated quite fluidly between and among groups over time. This should especially be true in historic situations where new prospective gaming partners come in contact, reflecting the degree of heterogeneity or homogeneity in the cultural landscape and the changing demographic compositions of groups themselves. A time-transgressive mutability in gaming styles is something the integrated archaeological and ethnohistoric perspective employed here is particularly well-suited to explore. This analysis offers a comparative understanding of contemporary Indigenous gambling in North America. Even as styles of play evolve, a tacit, mutual agreement endures, involving recognition of the socioeconomic utility of gambling.

The Social Position of Gambling

Remarking on the prevalence of gambling among the Ktunaxa, ethnographer Bill Brunton (1998) found it to be "central enough to social life that it should be considered a cultural theme" (p. 573). This core significance is reflected in the very fact of gambling traditions being preserved in ceremonies, oral traditions, and creation stories continent-wide (Culin, 1907; Dye, 2017; Gabriel, 1996; Matthews, 1889, 1897; Yanicki, 2014, etc.). The many hundreds of traditional games played in North America, categorizable into such groupings as ball games like lacrosse, dice games, guessing games, and target-shooting games like hoop-

and-pole (Culin, 1907) are intensely agonistic contests—trials of superiority in which participants strive to prove themselves against their peers. Cultural historian Johan Huizinga (1955) felt such playful competitiveness to be a defining element of human culture. But to focus on the recreational aspects of gaming as an explanation for its prevalence, for instance by emphasizing gameplay's utility in childhood development (i.e., Barry & Roberts, 1972; Roberts & Sutton-Smith, 1962, 1966; Sutton-Smith & Roberts, 1964; Sutton-Smith et al., 1963; see critique in Binde, 2005), rather trivializes the importance of gaming among adults and fails to address the central importance of gambling, which is not commonly a feature of children's gameplay. While adults played games for many purposes, including in ceremonies of healing, identity affirmation, and renewal, a duality between their ritual roles and near-universal association with gambling has long been recognized, requiring us to account for gaming's economic and political functions (Culin, 1907; Eymann, 1965, p. 39; Stuart, 1972).

Gambling in ancient North America was not simply a matter of the acquisition of material winnings and the concentration of wealth; it also offered a pathway to social standing. While staked winnings were undoubtedly valued, a parallel can be seen between gambling and a practice known as prestige hunting (Yanicki, 2017, pp. 115–116). In prestige-based economies, the real benefit of hunting success is not simply to earn subsistence, but to gain the reputational benefit accrued through wealth redistribution. Chiefly and other high-ranking status is thus reckoned not just by the interpersonal debts and obligations accrued through sharing, but by the demonstration of one's personal, supernatural power that repeated success entails, comprising a succinctly agonistic form of peer-competition (Hawkes & Bliege Bird, 2002; Molina et al., 2017). Likewise, gambling was an accepted, and indeed highly valorized pathway to prestige—indirectly, by means of wealth redistribution and associated recognition of personal power, and even more directly through the wagering of earned social rank (Flannery & Cooper, 1946).

As an economic pursuit, gambling has been identified by cultural anthropologist Marshall Sahlins (1972) as a relatively selfish form of exchange. Compared to the altruistic giving of a parent to their child, where the giver has no expectation of receiving anything in return, or to the cooperative equitability of gift exchange among peers, gambling competitors consensually engage in an "attempt to get something for nothing with impunity" (Sahlins, 1972, p. 195). This is a form of *negative reciprocity*: offering less in trade than the value one expects in return. Like other forms of inequitable exchange (i.e., theft, appropriation by force, capitalism), Sahlins argued that gambling in hunter-gatherer and other subsistence economies should be expected among trading partners who lack strong kinship or social ties, as indeed the ethnographic and

historic data show is the case. Across the breadth of North America, the cooperative and competitive biases expressed in gambling preferences and betting patterns (in which family and community members generally bet on their own affiliates) strongly reflect patterns of identity reinforcement among socially constructed in-groups and out-groups, of which kinship networks in human societies are a central part (Hogg, 2006; Sahlins, 1976; Tajfel et al., 1971; Turner et al., 1987; Yanicki, 2017).

Considerable flexibility can be found, however, in the day-to-day application of these principles. In their pioneering ethnographic research on the social implications of gambling among the A'aninin (Gros Ventre) of Montana, Regina Flannery and John Cooper (1946) noted that gambling among members of the same tribal group was common, though strictly proscribed. Based largely on reckoning of kinship distance—a variable that can differ greatly across cultures based on consanguineal, affinal, and fictive terms—Flannery and Cooper (1946, pp. 409–414) defined a spectrum of attitudes towards gambling, which they referred to as the *bettor-wager pattern*. At the nearest extreme, between close relatives, gambling was usually prohibited outright, while between friends and individuals related through marriage, trivial wagers were often socially acceptable. Such small stakes could include bets to determine who would have cooking duty that night, or for trinkets like the arrows fired in a marksmanship contest. It is the highest-stakes contests, ones that could cause lasting harm to the loser and for which all else was likely but practice (Yanicki, 2017, pp. 111–12), that were limited to unrelated, socially distant competitors: rivals for power and prestige from other clans and age-ranked societies and members of other villages and tribes. At the farthest extreme, gambling was once again impossible, for there lay enemies against whom only the utmost hostility was reserved.

The gradient nuances of the bettor-wager pattern codified by Flannery and Cooper can be seen time and again in observations of Indigenous gambling from historical and ethnographic sources across North America. They offer great insight into some of the earliest historical accounts of gambling by European colonists in North America, from 17th-century New England, where Algonquian dice and lacrosse games were played “towne against towne” (Williams, 1963, p. 194) and “country against country” (Wood, 1634, p. 96). On the opposite side of the continent, they are at the essence of Verne Ray’s (1963) ethnographic description of Modoc practice in California, where “intertribal gatherings were invariably the occasion for intensive gambling and in these games the opposing teams were always from different tribes” (p. 124).

The terminology used here, of villages, clans, tribes, and nations, is admittedly imprecise, but this is deliberately so, as such identity labels alone are not necessarily prescriptive of a gambling relationship. There is an implied social calculation made by

individuals involved about whether or not to gamble. Personal life histories can transcend social boundaries, for instance through intermarriage or adoption, creating strong social ties and precluding gambling where it might otherwise seem likely to occur. And just as individuals’ membership in social groups is subject to change, so too are relations between groups. In this sense, gambling may better be understood as demonstrative of the quality of a relationship in a given moment. In some cases, the intensification of gambling could signify the deterioration of previously close bonds; in others, it could mark the amelioration of past hostilities (cf. Geertz, 1972). It is in this spectrum of changing relationships that we see the meaning behind DeBoer’s (2001) summation, where “gambling can be seen as an in-between or liminal activity, one playing out the ambiguities inherent in alliance, exchange, warfare, marriage, and other relations... who are typically situated far, but not too far, away” (p. 235).

Games of Life and Death

In terms of what could be wagered in North American gambling games, the answer is virtually anything, and, as the bettor-wager pattern stipulates, the substantiveness of the wagers was context-dependent. One might reasonably surmise that the contestants were fairly closely related in a ca. 1770 Deh Cho hand game observed by Samuel Hearne, in which the stakes were merely “a single load of powder or shot, an arrow, or some other thing of inconsiderable value” (Hearne, 1795, p. 335). The annual gathering of more distantly affiliated Piikàni bands into large winter camps is reflected in the account of David Thompson, from the winter of 1787–1788, in which gaming was a constant occurrence, and some men “gambled away their things, even to their dried provisions” (Thompson, 1916, p. 358).

To this extent, men’s and women’s gambling can be considered more or less interchangeable, though men and women commonly played different games. Flannery and Cooper (1946, pp. 410–411) noted that the bettor-wager pattern of identifying gambling partners who were “just right” based on kinship and social distance applied equally to both sexes—at least as far as gambling for low stakes was concerned. Gambling for trinkets, decorations, and, more rarely, clothing, is well attested among women continent-wide (DeBoer, 2001, pp. 227–228), and women could and did gamble to the point where they “had nothing more to stake” (as reported among the Omaha by James, 1823, p. 217). However, disparities in wealth and ownership appear at the heart of claims such as that Anishinaabe women did not own enough property to gamble more extensively (Landes, 1971, p. 26). Similarly, while Piikàni men wagered horses and weapons on the outcome of women’s dice games, there is no evidence that women themselves wagered such stakes (Ewers, 1958, p. 155).

Thus, DeBoer (2001, 227) noted, it is with higher stakes that an asymmetry between men’s and women’s

gambling begins to emerge. Among the A'aninin, some of the most intense intra-group gambling contests took place between male rivals for standing within the larger tribe, for whom stakes could include a lifetime's worth of earned social rank and the loser could be left permanently disgraced (Flannery & Cooper, 1946). In the Algonquian contests reported by early American colonists, intervillage rivalries can be seen near their apogee, with wagers so high as to "exceed the beleefe of many" (Wood, 1634, p. 96) and potentially including wampum, clothing, houses, corn, or even the contestants themselves (Williams, 1963, p. 197). Though not universal and often frowned upon or forbidden, historical records and oral traditions show debt slavery, through self-wager or the wagering of wives and children, was a common outcome continent-wide (Cameron & Johansson, 2017). As with other very high stakes gambling, there is no record of women wagering their spouses or children (DeBoer, 2001, p. 227).

Carrying this disparity to its greatest extreme, accounts of the most intense men's gambling games at the intertribal level—that is, between the most socially distant competitors—show the blurring of the distinction between the choice to game or instead make war. Indeed, accounts are rife with examples of games being played between opponents who might otherwise be at war, but between whom, for a time, a cessation of hostilities was desired. In other cases, a dispute over gambling could lead to a flaring up of renewed conflict. The tension between gaming partners, and the possibility of conflict, is a pervasive theme in historical accounts (Flannery & Cooper, 1946; Vennum, 1994; Yanicki, 2014).

The interwoven nature of lacrosse and war in the symbolism, legends, and everyday practice of nations of eastern North America is particularly well documented (Becker, 1985; Converse, 1908; Speck, 1945, 1949; Vennum, 1994). Among some southeastern peoples, the equivocation between gaming and warfare is intimated in the interchangeability of terms for lacrosse: *hótti icósi*, "younger brother of war" among the Muscogee (Creek) and *da-na-wah'uwsdi'*, or "little war" among the Aniyvwiya?i (Cherokee; Hann, 1988; Vennum, 1994, pp. 213-214). The oldest surviving examples of Anishinaabe lacrosse sticks from the western Great Lakes, with a circular netted head, possess a noted similarity to ball-headed war clubs, and are in some cases even known as a "ball club" or "netted ball club" (Curtin, 1921, p. 379; Wulff, 1977, pp. 20-21; Vennum, 1994, pp. xii-xiii, figs. 2-3, 20a). An extraordinary example of a pre-1845 Cayuga lacrosse stick owned by the grandfather of Six Nations leader Deskaheh (Alexander T. General), collected by anthropologist Frank Speck in the 1930s (Penn Museum cat. no. 53-1-17), conversely features a carved hand clutching a lacrosse ball at its butt end (Becker, 1985, figs. 2, 3a; Eyman, 1964; Vennum, 1994, p. 81, figs. 1-2). To hold the ball in this way is a cardinal infraction in the rules of lacrosse; the imagery on this, one of the oldest

surviving Haudenosaunee (Iroquois) lacrosse sticks known, may evoke war club symbolism in which the ball is believed to be released to strike an opponent. The addition of two clasped hands on this piece may further evoke the Clasp Hands Dance, a rite practiced by warriors prior to embarking on the war path (Speck, 1949; Vennum, 1994, pp. ix-xiv).

Conversely, warfare is sometimes referred to as a game, as in a speech by the Hoocągra (Winnebago) chief Little Priest (Will C. McKern papers, cited in Vennum, 1994, p. 214). Numerous authors have commented on an agonistic, game-like component of Plains warfare, in which opponents strove for social recognition or prestige through non-lethal victories, scored by performing such feats as touching an opponent, and termed 'counting coups' (Benedict, 1950, p. 89; Erodes, 1972, p. 47; Grinnell, 1923, p. 405; Hoebel, 1978, pp. 76-77; Lowie, 1920, pp. 221-222, p. 356; Turney-High, 1942, p. 103). Sociologists John Loy and Graham Hesketh (1995) suggested these parallels may indicate a role for gaming in instilling boys with the values and training necessary for the warriorship expected of them in adulthood. While intriguing, a description of warfare as inherently "playful," and the claim that "Plains Indian warfare was a game or a contest for prestige" (Loy & Hesketh, 1995, p. 81, p. 102), comes across as excessively rose-tinted, glossing over the harsher historical realities of internecine conflicts which could range from minor skirmish to massacre.

Rather than viewing warfare as play, authors such as Thomas Vennum, Jr. (1994), Timothy Pauketat (2009), Grant Stauffer and Kent Reilly (2017) have suggested that widely distributed forms of games like lacrosse, *chunkey* (the Mississippian form of hoop-and-pole), and the ball game moderated warfare by promoting the maintenance of peaceful relations over broad regions. While this assessment is, in my view, much closer to the mark, the question of whether warfare was extreme play or gaming is watered-down war may yet reflect a clash in worldviews between the participants in these cultural systems and the scholars describing them. Gaming and gambling can be deeply integrated into Indigenous philosophies of life and understandings of the world (Dye, 2017, p. 102; Pauketat, 2009). Such integration is rendered explicit in the following description of the role of the dice game among the Apsáalooke (Crow):

They believed that each man's fate was determined by the luck and the magical power of his dream guardian, the animal spirit with whom he had entered into mystical alliance during his puberty vision quest. Everything that happened to him depended upon the fortune of his guardian spirit in a stick-dice game. In the Other World a game was being played. On the one side were the guardian spirits. On the other were anthropomorphic gods. As the dice went, so went a man's career. When one of the spirit

guardians lost the game, his man died. The fatalism that was rationalized about the supernatural stick-dice game went deep into Crow life and behavior; their recklessness in war and the enormous losses in population which they sustained during the 19th century were believed due to the shifting play of the celestial dice game. (Eyman, 1965, p. 43)

Within this cultural context, direct, personal linkages exist between gamblers and the supernatural world, and by extension, between more functionalistic versus ritualistic aspects of play. These cannot be easily disentangled.

It is through this lens that we may perhaps best view the deeply interwoven parallels between gaming and warfare, as evident in points scored in Plains dice games being referred to by the same term as war coups, the *pugamágun* (war club) depicted on Anishinaabe (Chippewa) dice, and the war calumet or tomahawk depicted on a set of Nakota (Assiniboine) dice (Culin, 1907, 66, p. 173; Fletcher, 1915, p. 67; Schoolcraft, 1853, p. 72). The parallels also extend to the practice of gambling in general: the word for gambling in the ancient form of *Siksikapohwasin* (the Blackfoot language) preserved in ceremony and song is the same as the word for warfare. As explained by the late Piikàni ceremonialist Allan Pard (in Yanicki, 2014), this synonymy is not a mere coincidence, nor is it easy for outsiders to understand:

I know it's a hard thing for a white guy to get his head wrapped around this, but to the Blackfoot people, gambling was no different than warfare. Basically, you know, you're gambling, you're putting your life on the line when you go into war. And the same thing when you're gambling, you're putting some- thing on the line to play the game. (p. 242)

In the case of the hoop-and-arrow game, the life-or death consequences of gambling are illustrated by the Piikàni story and associated victory song of two contestants from enemy tribes playing for the ultimate prize of each other's scalps, an injury that could often prove to be fatal (Allan Pard, cited in Yanicki, 2014, p. 242; see Flannery & Cooper, 1946, pp. 401–402, for a closely similar story among the A'aninin). According to Pard, the victory song, incorporated into the Sun Dance, is sung

to symbolize the Sun Dance's capability to conquer our adversary. Not only people, but evilness and sickness and death. That's our ability to conquer adversaries.... So that's how those kinda stories have so much significance in our ways and in our culture, because those victory songs or Scalp Dance songs give us encouragement in life... and give us hope that

we can always conquer our adversaries and meet our challenges in life.

So basically, our ways, we say *matiksistapi*, meaning they weren't just pulled out of the air, they weren't nothing, they always have something significant. There's substance to how we, why we do things, and a reason, and usually that reason is told through these kind of stories, how they're related to this victory song. (Allan Pard, cited in Yanicki, 2014, p. 243)

This essential morality, so expressed, is a powerful illustration of the deeply connected nature of ritual, warfare, gaming, and gambling.

Examples of gambling contestants staking their lives on a game are commonly expressed in mythological terms, again speaking to a deep instilment within value systems and worldview. Stories of culture heroes battling powerful supernatural beings, with the loser facing death, can be found across the continent (Dye, 2017, pp. 98–99). Decapitation, a possible analogue for scalping, appears in the oral traditions of the Haudenosaunee, Osage, Ponca, Pawnee, Caddo, and other peoples (Curtin & Hewitt, 1918; Dorsey, 1906, pp. 236–239; Howard, 1965; Lankford, 2008, pp. 163–90; Weltfish, 1937, pp. 172–177). Ritual competitors may have reenacted or emulated aspects of mythical competitions in ceremonial forms of gameplay to maintain sacred covenants and seek propitiatory blessings (Frank Hamilton Cushing, cited in Culin, 1907, pp. 212–217; Dye, 2017; Stevenson, 1904, p. 480). However, observed historical and ethnographic gambling practice, generally using the same games, is for the most part limited to the other wagers described above.

An intriguing possible exception comes from the 18th-century observation by American botanist William Bartram of large plazas called *chunky-yards*, sunken rectangular areas situated adjacent to ancient earthen mound platforms in the Muscogee and Aniyvwiya?i territory of what is now Florida and Georgia (William Bartram, cited in Jones, 1873, p. 181). Bartram's "chunky" is recognizable from contemporary terms for a widely distributed variant of the hoop-and-pole game where a stone disc was used—*chungke* or *chunke* among the Muskogean-speaking Chahta (Choctaw), *chenko* among the Eno of South Carolina, and *tchung-kee* among the Mandan of North Dakota, now commonly referred to as chunkey (Adair, 1775; Catlin, 1841; Culin, 1907, p. 487; Lederer, 1672; Romans, 1776). Bartram's description of what may then have been playing fields for this game is provocative:

The *Chunky-Yard* of the Creeks, so called by the traders, is a cubi-form area generally in the centre of the town.... Near each corner of the lower and further end of the yard stands erect a less pillar, or pole, about twelve feet high: these are called

the *slave-posts*... and these posts are usually decorated with the scalps of their slain enemies: the scalps, with the hair on them, and strained on a little hoop, usually five or six inches in width, are suspended by a string six or seven inches in length round about the top of the pole, where they remain as long as they last.... The pole is usually crowned with the white dry skull of an enemy. In some of these towns I have counted six or eight scalps fluttering on one pole in these yards. Thus it appears evidently enough that this area is designed for a public place of shows and games. (William Bartram, cited in Jones, 1873, pp. 178–180)

Bartram did not observe these plazas in use during his explorations of the 1770s—many such plazas lay abandoned or repurposed in Aniyvwiya?i villages, while he was “convinced that the chunky-yards now or lately in use among the Creeks [Muscogee] are of very ancient date” (William Bartram, cited in Jones, 1873, p. 181). Nevertheless, among the Muscogee they were still “cleaned out and kept in repair, being swept very clean every day, and the poles kept up and decorated in the manner I have mentioned” (William Bartram, cited in Jones, 1873, p. 181).

Bartram insinuated that the plazas served multiple purposes; a central post could indicate use in a regional variant of lacrosse, or in the variant of the ball game played by the neighbouring Muscogean-speaking Apalachee (Bushnell, 1978; Hudson, 1976, pp. 220–221). Large plazas of this nature are a common feature at population centers of the Mississippian culture across the midcontinent and American Southeast, where chunky was widely played. At Cahokia, an ancient city near the confluence of the Mississippi and Missouri rivers, the earliest evidence for chunky in the form of distinctive, polished discoidal stones dates to about AD 600 (DeBoer, 1993; Pauketat, 2004, 2009; Perino, 1971). Among the motifs associated with the chunky player, an important iconographic theme of the associated Southeastern Ceremonial Complex depicted in stone carvings, shell gorgets, and other media, are both scalps, worn at the belt of a distinctive heart-shaped apron, and severed heads (Brown, 2007). Timothy Pauketat (2004) has emphasized the mythological character of these representations, referencing an episode from the Red Horn cycle of the Hoocągra in which the lives of the culture hero and his village are forfeited in a ball game played against giants (Radin, 1948, pp. 123–129). Bartram’s observation of an association between scalps, skulls, hoops, and playing yards in the Southeast is suggestive of a more literal reality.

More direct evidence of life-or-death stakes can be found in the fate of down-on-their-luck gamblers in the Aztec world, where gambling was an accepted, albeit risky way of life for some commoners (Evans, 2017, p. 268). Writing in 16th century Mexico, Dominican friar

Diego Durán reported familiarly all-consuming wagers among the Aztecs on the ball game, dice, and other games, with professional gamblers staking “jewels, stones, slaves, fine cloths, breechcloths, their homes, their wives’ jewelry. They gambled their lands, their fields, their granaries filled with grain, their maguey fields, their trees and orchards” (Durán, 1971 [1574–1579], p. 305). And, as elsewhere in North America, those with nothing more to lose could wager themselves as slaves, at which point, if no family members or other connections could pay off the debt, they risked being sold in the market for use as human sacrifices (Durán, 1971 [1574–1579], p. 281). There can be little doubt that death stood as a possible outcome of catastrophic losses in Mesoamerican gambling.

That is to say nothing of the widely attested association between human sacrifice and the Mesoamerican ballgame, sometimes interpreted as the fate of the game’s loser (Gillespie, 1993; Whittington, 2001). A fuller treatment of this subject is beyond the scope of the present discussion. However, imagery of decapitation, so widely represented in gambling myths across the continent, is also notably prevalent in Aztec and earlier Maya ballcourt iconography, including depictions of *tzompantli*, or racks for bearing human skulls (Gillespie, 2013, pp. 322–324; Miller & Houston, 1987, p. 62). Decapitation also plays a pivotal role in the origin story for the Mesoamerican ball game recorded in the *Popul Vuh* of the K’iche’ Maya, in which a contest against the lord of the underworld results in the loser’s head being used as a game ball (Goetz & Morley, 1950).

Another striking parallel can be seen in the frequent conjunction of the Maya glyph for ballplaying, *pitz*, with the glyph for war (Miller & Houston, 1987, pp. 62–63). If this is an extension of the same synonymy expressed in other North American gaming terminology, some insight may be gained into depictions of Mayan lords playing the ballgame against one another, not as mere recreation, but as deadly serious battles determining the fates of both rulers and their kingdoms. Whether these glyphic inscriptions refer to rulers being defeated through military conquest or a gambling game, the outcome may have been the same. Aztec sources appear to suggest this was the case. As noted by Danish archaeologist Frans Blom (1932),

Some of the games of the nobles were played for stakes and others were played to settle disputes. Several authors tell us of the game between Axayacatl of Mexico and Xihuiltemoc of Xochimilco. The stakes were several towns against the revenues of the market and the lake of Mexico. The lord of Xochimilco won the game and apparently was assassinated by the loser. (p. 500)

It certainly bears mention that the ballgame conforms to the themes of the bettor-wager pattern, extended to

highly complex societies, and the merger of gaming, gambling, and ritual on a grand scale.

The risk of severe injury through the act of *playing* competitive gambling games stands as a further potentially lethal outcome at the extreme end of the bettor-wager spectrum, where gameplay stood as a surrogate for war. The Mesoamerican ballgame is notorious in this regard, with players frequently being bruised, maimed, or knocked unconscious by the heavy rubber ball used in the game, and in some cases requiring bloodletting to reduce severe swelling (Durán, 1971 [1574–1579], pp. 315–316). Similarly, injuries arising from lacrosse could range from the minor to the severe, with broken bones and even deaths being known (Fogelson, 1962, p. 43; Lahontan, 1703, p. 18; Mooney & Olbrechts, 1932, p. 71). Vennum (1994, pp. 224–234) has outlined widely varied attitudes towards this risk of physical harm, and it is possible to identify elements of the bettor-wager pattern here as well. Injuries were reportedly rare in lacrosse games among the Mohawks of Kahnawake and Akwesasne, and violence was only noted to occur in contests against unnecessarily rough-playing Canadian teams (Beers, 1869, pp. 177–178, p. 205, p. 241). In other accounts from eastern North America, matches between groups that were historic enemies could sometimes only serve to defer hostilities. Disputes arising from intertribal lacrosse games have been known to descend into general melees, and to result in ill-feelings that nearly led or did lead to protracted, all-out war (H.S. Halbert, cited in Cushman, 1899, pp. 131–135; Fogelson, 1962, p. 135; Morgan, 1904, p. 280; Swanton, 1928, p. 148). Simmering tensions may have been an ever-present aspect of virtually any intertribal gameplay, a danger noted by Flannery and Cooper (1946) even in games of chance on the Plains. More intensely physical contests like lacrosse, in which players are equipped with symbolic war clubs, and in which the allegorical nature of gaming as warfare is made most directly manifest, could only amplify this risk.

Implications of Intergroup Gaming

The aim of the preceding discussion of gambling stakes has been to show that, for the loser, the highest-stakes contests could have disastrous costs. To gamble, one would have to be willing both to take this risk and to impose it on others. That willingness is enabled, in part, by a sense of need to compete for status and resources, which are both limited and distributed unequally in society. Gambling offers a convenient shortcut to both, but at a potentially damaging cost to oneself or one's competitor. This cost is a fundamentally limiting factor, being a violation of the principles of cooperation and mutual benefit, or generalized reciprocity, that characterize close-knit social groups (Sahlins, 1972). The willingness to gamble, and the degree to which harm against a competitor is tolerated, are entirely predicated by the kinship bonds and social

distance between opponents. In ritual forms, this relationship can be seen as extended into metaphorical terms, as between mortals and non-mortals, humans and non-humans. There are a number of implications to the bettor-wager pattern, expressed here dually as a preference to gamble with out-group opponents, and for stakes to rise in accordance with social distance up to the point of an equivalency with war.

Loci of play

In his review of Robert Textor's (1967) cross-cultural tabulations on gambling frequency, Binde (2005) noted that more than half (51.2%) of the 127 world cultures that lack games of chance also lack cities; of those, 75.4% have an average community size of less than 200 inhabitants. Thus, he argued, "gambling seems to be associated with societal complexity, and we may ask why" (p. 14). Demographics alone are explanatory enough. In areas with exceedingly low carrying capacity, band-level groups consisting of one or a few extended families with strong internal kinship ties can range over large territories in comparative seclusion for much of the year. In these settings, gambling should not be expected on a day-to-day basis, but would instead be limited to the few times a year when band-level groups convene. Unsurprisingly, a common theme expressed in the ritual aspect of many traditional North American gambling games is that they are played only at specific times of the year during such gatherings, as of the Cheyenne hoop-and-pole game (Meeker, 1901, p. 27), the Mi'kmaq plumstone dice game (Wallis & Wallis, 1955, p. 291), and many others.

For the archaeologist, evidence of where gambling games were played offers considerable interpretive potential. For the most part, it would be fair to say that evidence of such games is rare. Many, like lacrosse, strictly use perishable materials, and survivability is an issue. However, a few sites and locales have yielded sometimes vast numbers of objects associated with various ethnographically and historically attested games. Some of the larger examples include Pueblo Bonito, New Mexico, associated with the Navaho myth of the Great Gambler (Weiner, 2018); Wilson Butte Cave, Idaho, and villages in the Parowan Valley, Utah, where scores of tabular, two-sided bone dice have been found (Bryan, 2006; Hall, 2009); the Lake Midden site, Saskatchewan, and the Ice Glider site, South Dakota, where polished bison rib darts used in a Plains variant of the snow snake game number in the hundreds (Majewski, 1986; Walde, 2003); and the Promontory Caves, Utah, where excellent preservation conditions have allowed the recovery of cane, wood, and other perishable gaming pieces that could number in the thousands (Hallson, 2017; Yanicki & Ives, 2017). In other cases, singular objects or monumental features that are found in many different places, like chunky stones and ball courts, attest to the wide distribution of their associated games.

These can be interpreted in a number of ways. Binde (2005) was correct to note that population size alone can offer greater opportunities for social relationships compatible enough for gambling to occur. His suggested parameters— “a plurality of social classes, regions with varying economic characteristics, and groups of people with different religion and worldview” (p. 14)—are valid elaborations of the ways individuals within large-scale societies can divide themselves according to multiple social identities that are salient at different times (Hogg, 2006). They are, however, an ellipsis to the most foundational in-group of all, the family or kin-group, from which the reckoning of social competitors and cooperators first begins. The identification of who can legitimately gamble with whom radiates outward from this very personal core.

As the ethnographic data from North America so aptly illustrate, larger population size is not a prerequisite for gambling to occur. Gambling is reported even among small hunter-gatherer groups, especially for small stakes. Larger annual events including rendezvous-type trade fairs, ceremonial gatherings, large winter camps, and communal hunts can provide the needed conditions for higher-stakes gaming to take place (Janetski, 2002; Wood, 1980; Yanicki, 2019). An example of the intermittence (or frequency) of such meetings can be found in the 19th-century records of the Mission of St.-Jean-Baptiste at Île-à-la-Crosse, a Hudson’s Bay Company post strategically located on the frontier of both Nihithaw (Woods Cree) and Dēnesųłiné (Chipewyan) territory in what is now northern Saskatchewan. In a letter to his superior, oblate priest Henri Faraud (1863) wrote of his frustrations when a party of non-converts arrived to trade:

[T]he old hand game is waking up and seems to want to spoil everything again. The [here the author uses a racial epithet] had arrived on the eve of Ascension: on the feast day, many did not have the patience to wait for the instruction which followed Vespers; but immediately went out to join some of the non-praying Crees and others as well, I guess, and they played at the hand [game] all night. The evening of the same day I gave them a severe reprimand which seemed to impress them deeply, the next day the game seemed dead; but the next day another band having arrived, before even coming to see the priest, what do I say, even before entering the church, they started to play and only finished to come to attend the [May devotions to the Virgin Mary]. I took advantage of this moment to remind them of the impropriety and the culpability of their conduct.... Two days later the game resumed more than ever. (p. 2)

The reasons for the priest’s exhortations falling on deaf ears are clear; in retrospect, the placement of the mission seems comically ill-fated.

Rather than being an accompaniment to other activities, gatherings were also planned with outsiders for the express purpose of playing games. Large plazas in the Mississippian culture area, and the construction of stone-walled courts for the Mesoamerican ballgame reflect the willingness of groups of players to travel great distances to play in such contests. This is not restricted, however, to the larger population centers of ancient North America. The hoop-and-pole game stands out in this respect: among the Lakota (Teton Sioux), interest in the game was such that

[s]ometimes a band of Indians would go a long distance, taking with them their families and all their possessions, to gamble on a game between expert players. Such games were watched by interested crowds, and, as they offer many opportunities for trickery, fierce contests arose over disputed points, which sometimes ended in bloodshed and feuds. (Walker, 1905, p. 278)

Likewise, among the Dakelh (Carrier) of north-central British Columbia, the hoop-and-pole game “in times past... had a sort of national importance, inasmuch as teams from distant villages were wont to assemble in certain localities more favorable to its performance in good style” (Morice, 1894, p. 113). And a well-attested Piikàni creation story describes a playing field for the hoop-and-pole game on their territorial frontier with the Ktunaxa in southern Alberta, made for “different nations... to meet here annually & bury all animosities [sic] betwixt the different Tribes, by assembling here & playing together” (Fidler, 1792–1793, p. 17; Yanicki, 2014).

In smaller scales, gambling’s tendency towards liminality may mean that the locus of archaeological research, if focused on domestic activity, may not always be a setting where these interactions can be observed. A pathway towards the availability of gambling partners could yet be present in just such locales through the incorporation of outsiders into the residential group. At the Promontory Caves, a 13th-century AD site complex on the north shore of Utah’s Great Salt Lake, scores of two-sided, split-cane dice have been recovered, together with smaller numbers of dice made from split sticks, polished bone, and beaver teeth (Steward, 1937; Yanicki & Ives, 2017). Dice are a special category of gaming implement: across North America, the great majority of ethnographic and historic accounts describe dice to be a women’s game (80.9% of reported instances; DeBoer, 2001, p. 224). The caves are a residential setting, filled with debris from food preparation (principally bison), hide preparation, and moccasin repair. The several types of dice present do not represent stylistic change over time. They are instead found mixed in the same deposits spanning just

50 years of seasonal occupations by a small- to mid-sized band, probably 25–50 people or four to seven households (Hallson, 2017; Ives et al., 2014; Lakevold, 2017, pp. 143–152). There is every indication that Promontory women gambled on a considerable scale—a seeming break with the bettor-wager pattern, except that they were likely not closely related. The extent and diversity of gaming styles suggests women from different backgrounds were being recruited into this population (i.e., through intermarriage), and that they brought their own gaming traditions with them, as they did other styles of craft production such as pottery and basketmaking (Yanicki 2019, in press; Yanicki & Ives, 2017).

Shared fluencies

The Promontory Caves' gaming assemblage also illustrates another phenomenon associated with intergroup gaming: the negotiation of the rules of play. The question of what games were played at any time would come down a question of mutual intelligibility, requiring both sides to have a strong enough familiarity to feel that they had a chance to win. Intertribal gambling thus requires a shared fluency of games (Yanicki, 2017).

Given the ethnic and linguistic heterogeneity that has long typified many regions of North America, the neighbours with whom one wished to game were by no means assured of speaking the same language. Population upheavals associated with the onset of European colonization only served to amplify the diverse character of this social milieu, particularly on the Plains as numerous peoples from neighbouring regions took up a bison hunting lifestyle after the introduction of the horse (Binnema, 2001). In cases of high-stakes gaming, where opponents from other tribes were actively sought out, communication was an obstacle that needed to be overcome, but it need not have been a major one. The use of Plains Sign Language as a lingua franca made such communication possible, at least across the central part of the continent. The full extent of this language prior to European contact is not known, though it was in widespread use along the Gulf Coast at the time of the Spanish entrada (Clark, 1885; Davis, 2006, 2010; Wurtzburg & Campbell, 1995). Elsewhere, the poorly known sign language of the Interior Plateau and Chinook Jargon of the Northwest Coast may have served a similar role (Mallery, 1881). Practices such as sending children to be raised among neighbouring tribes, as among the Kiowa and the Apsáalooke (Mooney, 1898), and kinship structures that sought out exogamous intermarriage, leading to the formation of bands of mixed identity, would also have promoted widespread bi- or multilingualism (Berndt, 2008, pp. 42–45; Binnema, 2001, p. 13; Colpitts, 2015, p. 423; Innes, 2013, pp. 60–61, pp. 70–72).

Ultimately, these shared forms of communication are archaeologically invisible, but their end products are not. Evidence of common methods and materials in the

accoutrements of games allows region-spanning social networks to be identified, reflecting how groups historically came to terms in their gambling activity. In this way, games can serve as a useful proxy for social contact (Yanicki, 2017). DeBoer (2001) explored this premise by mapping out the distribution of dice game variants across North America. Regional clusters are clearly evident, both in the materials used to make two-sided dice (for instance plumstones in the Northeast, beaver teeth in the Northwest, etc.) and in the mechanics of gameplay (for instance whether four dice, six dice, or more are used, and whether dice are tossed in a bowl or basket or are thrown on the ground). Following DeBoer's lead, I have previously mapped out hoop-and-pole variants to show the existence of a gaming style shared by numerous peoples of the Northwest Plains (Yanicki, 2014).

In aggregate, historical and ethnographic accounts show game distributions as they stood long after the onset of European contact and cultural disruption, extending into the early reservation era of the late 1800s and early 1900s. They reflect population movements, the onset of new contacts and new negotiations about the forms of play, and to a large degree the status of gaming knowledge after severe impositions had been made by colonial authorities. This is not to say that mapped distributions are invalid representations of traditional practice; they are accurate depictions of living traditions as they and their bearers stood at a particular moment in time. Work with archaeological collections allows things to be taken a step further, comparing ancient distributions of gaming styles both to each other, at different points in time, and to ethnohistoric distributions. At the Promontory Caves, comparisons of the gaming materials of the bison-hunting Promontory people to those of their contemporary neighbours, wetlands foragers from the archaeologically known Fremont culture, show that the two populations did not participate in the same regional networks of contact, gaming, and exchange. Further, the Promontory assemblage shows the presence of game styles in regions where they are no longer played, drawing on influences from as far afield as the American Southwest and the Canadian Subarctic (Yanicki & Ives, 2017).

Meanwhile, evidence for the incorporation of varied women's traditions, as reflected in gaming styles and craft production, helps elucidate the conditions under which ethnogenesis takes place (Yanicki, 2019, in press). Intergroup gambling, for all the risk it entails, must also be recognized as signaling the intention to pursue more peaceful relations than the alternative. It may therefore play a pivotal early role in overcoming the suspicions and hostilities experienced by rival groups, and in building a shared history of positive contact from which closer ties, including alliance and intermarriage, can follow. The utility of the Promontory example to the interpretation of other sites may be somewhat limited—the presence of multiple gaming traditions

and intensive in-group gaming may have been short lived, disappearing within only a generation or two as community members came to a consensus on emergent gaming styles and descendants came to have close kinship ties that were prohibitive to gambling relationships. However, there remains rich potential for other social networks to be explored through evidence of shared gaming traditions.

Fluidity of gaming vs. persistence of gambling

One conclusion that can be drawn from the archaeological study of gaming distributions—almost so obvious as to go without saying—is that games change over time. This can be in terms of how games were played, where, and by whom. This is perhaps most evident from some of the more archaeologically visible games. The earliest archaeological evidence for the Mesoamerican ball game—a ball court from Paso de la Amada on Mexico's Pacific Coast, together with rubber balls, stone yokes, and ballplayer figurines from the Olmec heartland on Mexico's Gulf Coast (Diehl, 2004, p. 32; Hill et al., 1998, pp. 878–879; Ortiz & Rodriguez, 1999, pp. 228–232)—show the game's widespread distribution and contact between Olmec and early Mayan centres by 3350 BP. Where courts are used in the game, variability is pronounced, with vertical, stepped, or sloping walls all noted; the addition of stone hoops to courtside walls of later Aztec and Toltec courts (ca. 650 BP), not present in the earlier forms, is a striking example of the game's gradual evolution (Blom, 1932, p. 507).

Likewise, the most visible artifacts of the chunky game—discoidal chunky stones themselves—demonstrate a well-established progression in form between the 7th and 14th centuries (DeBoer, 1993; Perino, 1971; Zych, 2017, pp. 68–70). Pauketat (2009) has proposed that a gradual expansion in the distribution of chunky stones across the breadth of the Mississippian culture area, from the western Great Lakes to the American Southwest, could show efforts to use the game both to promote social cohesion and to assert political influence by Cahokian elites, with whom the game is particularly associated. To the north of Cahokia, on the upper Mississippi and western Lake Michigan, chunky stones appear at a broad range of sites both with and without evidence of additional Mississippian culture influences. Their recovery from mostly poorly provenienced contexts, however, leaves it difficult to determine how much this northern distribution is associated with a movement of Mississippian peoples and how much might represent the spread of a shared understanding of how to play the hoop-and-pole game (Zych, 2017, pp. 72–73, p. 82).

It is tempting to look for the point of origin of a single game and document its historical development, including its diffusionary spread outward from a core, as seen, for example, in Pauketat's (2009) arguments for chunky, Eaglesmith's (1976) claims for a Mesoamerican origin for ball games, and Culin's (1907, p. 31)

suggestion that the oldest forms of all North American games could be found in the Southwest. Among neighbouring, contemporary groups, the question of diffusion is not contentious: the transmission of cultural information through social learning is a key component of cultural evolutionary theory (Ammerman & Cavalli-Sforza, 1984; Boyd & Richerson, 2005; Boyd et al., 1997; Cavalli-Sforza et al., 1988, 1994; Moore, 1994a, 1994b; Richerson & Boyd, 2005; Shennan & Collard, 2005, etc.). But, a focus on the diffusion of individual gambling games risks missing a bigger picture of the structural principles underlying how and why games are played. It must be remembered that gaming is a contested activity with a strict requisite for willing partners. A chunky stone, a hand game billet, a plumstone die, or even a prepared plaza for a ball game or lacrosse, all are representative of a transactional exchange between two parties. The spread of gaming traditions between cultures, and their constant reinterpretation over time, are thus necessary conditions for their being played in peripheral contexts of cross-cultural contact (Yanicki, 2019, pp. 230–233). Refocusing on consideration of the intertribal character of gambling and participation in the bettor-wager pattern, highlighting the culturally informed values and personal agency driving such opportunities for exchange, yields some interesting points for discussion.

Pauketat (2009) has contended that the chunky game was used to “win the hearts and minds of distant people” (p. 20), effected through the spread of what he has termed the *pax Cahokia*. Judging from the distribution of similar mechanisms among other games across the continent, such a spread would have been greatly facilitated by virtue of being a familiar concept to virtually anyone in North America. As has already been noted, the political and economic aspects of gaming cannot be easily separated; indeed, they are often regarded as the same thing. Agreement could readily be found among different groups covering an enormous geographic area that a gambling game could mediate differences as an alternative to armed conflict, while simultaneously serving as a pathway to wealth and prestige. In this sense, the role of a game like chunky is far from unique—a widely understood *pax alea*, or gambling peace, might describe these circumstances more suitably.

The extent to which similar practices occur continent-wide, and to which stories of life-or-death gambling contests are integrated into creation stories and oral tradition, points to the antiquity of an underlying cultural theme in which the choice of game played is but a surficial expression. Even in such disparate cases as a hand game during an encounter between Subarctic caribou-hunting bands, or the pageantry and bloodletting that must have accompanied a ball game between Mayan lords, an acceptance of the social role of gambling is the thread that weaves the rich tapestry of North American gaming together. Though highly theoretical, such core values,

especially when they are integral to group identity, should be fairly impervious to change, while more peripheral elements, and those more recently introduced, should be expected to change quite fluidly over time (Boyd et al., 1997; Durham, 1992; Vansina, 1990; Yanicki, 2019, pp. 230–233). Thus, individual games, or even elements of individual games, diffuse readily across ethnic and linguistic boundaries (Crump, 1990, p. 119, p. 127; DeBoer, 2001, pp. 232–233; Parlett, 1999, p. 16; Steward, 1941, p. 246). The spread of games is not the same as the spread of gambling, however (Kroeber, 1948). The patchy distribution of gambling both in the Americas and elsewhere in the world is enough to support the observation that “gambling does not diffuse easily from one culture to another [because] it is integrated or woven into the patterns of cultures, active in its social functions” (Price, 1972, p. 164).

A distribution for gambling that permeates the social fabric of ancient North America, coupled with what should be a resistance to adoption of the practice, does not lend great support to Binde’s (2005, p. 21) assertion that gambling emerged relatively recently (i.e., after complex, sedentary societies had developed) and took hold among neighboring peoples because it harmonized with keenly felt notions of tribal honor. This rests on a highly tenuous proposition that the interplay between tribal affinities and gambling is somehow stronger in North America than elsewhere, which is not the case. Balinese cockfighting is a noted example which closely follows the bettor-wager pattern (Geertz, 1972; Stuart, 1972). Here, wagers are made not just for money but for the changed perception of status that winning brings, individual contests are seen as life-or-death metaphors, and betting reflects “concentric rings of alliance” in which “a man will bet on a cock which is owned by a kinsman, and in the absence of a close kinsman, one bets on an allied group rather than an unallied one, and so on” (Stuart, 1972, p. 26). The nested layers of identity that situate affiliated kin networks within tribes, and promote feelings of solidarity between members of the same in-group against those who are not, are most certainly present elsewhere. However, the *ubiquity* of gambling, as seen in North America, is not.

On the contrary, I would suggest that the answer to the uniquely clustered North American distribution of gambling societies can be found in their shared early history. It is very difficult to detect when gambling first began to be practiced in the Americas. Circularly arranged stone impressions similar to the playing boards used with some dice games date to approximately 5,000 BP in Chiapas, Mexico (Voorhies, 2013). It is doubtful that these were the first games played on the continent: most traditional games rely on perishable materials that are not preserved at archaeological sites. Intriguingly, it is among Indigenous populations of the Western Hemisphere who are genetically most distinct from Ancient North

Americans—South Americans, whose ancestors diverged 14,000 to 17,000 years ago, and Inuit groups, whose ancestors spread out from Northeast Asia several millennia later—that gambling is least prevalent (Moreno-Mayar et al., 2018; Reich et al., 2012). Though genetic affinity is not strictly correlated with culture, the sheer intensity of gambling heritage from the Subarctic to Mesoamerica, especially in relation to neighbouring regions, may offer some indication that the seeds of the bettor-wager pattern were already in place at an early stage of human dispersal across North America. Could the propensity to gamble be attributed to the cultural equivalent of what is known to geneticists as a founder effect, present in a small founding population and infinitely varied among its descendants? If this is the case, the rich and varied record of North American gambling games is the product of parallel and repeatedly intersecting historical developments extending into deepest antiquity.

Transitions to the Present

The archaeological study of gambling games is, by necessity, greatly informed by contemporary practices, oral traditions, ethnography, and historical accounts. The very identification of what constitutes a “gaming piece,” as archaeologists frequently describe such objects as dice, hand game billets, or other more enigmatic finds, is heavily dependent on the analogies that can be drawn from games as they are currently known (Hall, 2009, p. 31; Yanicki & Ives, 2017, pp. 145–147). Without those analogues, it is highly doubtful that games could be archaeologically detected—and, I suspect, some evidence of prehistoric gambling in North America may be missed, out of a lack of familiarity with non-perishable components of games that are most likely to survive.

Just as archaeology is informed by modern records of gaming, archaeology in turn informs us that these games are not static. Historic and ethnographic accounts provide but a snapshot of gaming styles and geographic distributions, principally as they have stood in the centuries since European contact. The resulting view is “essentially ahistorical, collapsing different moments and periods in chronological time into the concept of a time before much contact with the West” (Binde, 2005, p. 21–22). Historic descriptions of gaming practices can reflect population movements that are the consequence of European colonization, in addition to many other subtle effects. Thus, for example, European trade goods were readily incorporated into various guessing games, to the extent that one traditional game, in which an object is hidden in a moccasin, became known to the many settlers who adopted it as the bullet game (Culin, 1907, p. 267, p. 343). Likewise, while the hoop-and-arrow game of the Siksikaitapi is ancient, the museum specimens of the hoops used in the game feature brass and coloured glass trade beads and twisted metal wire (Yanicki, 2014, figure 2.2). There is no inconsistency implied in such

observations. It is the nature of gaming to be fluid as gaming partners change, as knowledge of particular gaming styles is exchanged, and as new innovations within living traditions continue.

As we view the full record of North American gambling games as they have been played at certain places and at certain times, it is important to remember, too, that there is a danger in identifying any particular game as belonging to a particular group. Styles are distinctive, and accounts are almost as varied as the number of people who played them. These marks of individuation can attest to who, within a community, had the right to make the material trappings of a game, or who owned them, but the minimum number of participants in a gambling game remains two. Gambling games are designed to be shared, as players seek opponents from whom they have something to gain. This is the transactional nature of such gaming, where the objects themselves serve not so much as a representation of the identity of one party or the other so much as of the invitation to an exchange between both. This demands a degree of flexibility, so as to be not only familiar to a prospective opponent, but familiar enough to convince them that they, too, can win.

That is not to say that games do not have a certain directional *lean*: clusters in various game styles speak to the presence of peripheries and cores within regional gaming networks—multiples of them, as differing styles of shared gaming fluency developed over time. The waxing and waning in popularity of these variants may reflect the fortunes of their bearers, both in having something for which opponents wish to gamble and in having amicable enough relations to pursue gambling as a form of competition. These conditions were also subject to change. While the proliferation of a game could then reflect widening membership in an interconnected social network, the decline or replacement of that game could signify that system's diminution or collapse. Thus, the decline of *chunkey* in the Midwest and as far as the eastern Great Lakes coincides with the decline of Cahokia and other Mississippian-affiliated culture centers in the 13th through 16th centuries, concomitant with Haudenosaunee coalescence and the emergence of lacrosse (Engelbrecht et al., 2018; George, 2001; Pauketat, 2009).

Interruptions to traditional gaming practices, and particularly to the economic and political functions of gambling and the ceremonial complexes which supported them, can be linked to European contact and colonization. There is no small animosity expressed by Christian missionaries to gambling practices as a barrier to religious conversion, as in Father Faraud's (1863) letter to Bishop Taché. Shifts to Western modes of commerce and impacts of disease and warfare likewise impacted participation in gaming networks. These processes were amplified by Canadian and American governments' restricting Indigenous peoples to reserves, prohibiting large gatherings like potlatches

and sun dances, and forcing children's attendance at residential schools, reducing or eliminating their access to traditional knowledge and language (Yanicki, 2014, pp. 31–33).

The genocidal consequences of interference in these core cultural practices are pointedly illustrated in the abolition of the Apalachee ball game by Spanish missionaries and colonial authorities at Mission San Luis, near present-day Tallahassee, Florida, in 1639 (Hann, 1988, p. 328; Milanich, 1995, p. 96). Without the game, which played an important role in striking intertribal alliances and initiating joint military actions, the 50,000-strong Apalachee were consequently prevented from recruiting allies in actions targeted against them by British-allied forces. Further, they were at the same time prevented from engaging in the very activity that could ceremonially mitigate such disputes. By 1704, the Apalachee had been decimated by warfare and slave raids, and the mission itself had been destroyed, leaving only a small refugee population. After suffering decades of additional depredations, the few hundred surviving Apalachee finally resettled in French-controlled Louisiana (Hann, 1988; Horowitz, 2005; Milanich, 1995; Stauffer & Reilly, 2017, pp. 44–45).

In another example of the direct suppression of gaming activity, Louis Meeker (1901, p. 30), who resided for a time with the Oglala Lakota, wrote:

Recently [the hand game] became so popular upon the Pine Ridge Agency it was necessary to prohibit it entirely.... I am creditably informed that the Ogalala agreed to abandon their games in a treaty with General Sherman in 1868.... Some say Sherman's treaty stopped the field games. Others say they were superseded by the Ghost Dance, and never again used at the great gatherings.

The Ghost Dance mentioned by Meeker was a spiritual movement that spread among Indigenous peoples of the western United States in the 1890s. Tacitly resisting the devastating cultural, territorial, and demographic losses they were experiencing, peoples that adopted the practice incorporated the reenactment of traditional practices into a ceremony aimed at their revival, each group selecting what they felt most essential to please the spirits of departed ancestors (Kehoe, 2006). The hand game was one such practice so selected by several peoples, in the process being transformed from a gambling game to a ritualized performance that "was never played by band against band or tribe against tribe" (Lesser, 1933, pp. 309–311, p. 322). In the Pawnee Ghost Dance, while carefully preserving the hand game's rules and songs, the game shifted from an interpersonal competition to an exercise in building community cohesion. War symbolism, arguments, and material stakes were eliminated, though some games still allowed winners to avoid burdensome tasks like cooking duty or the

obligation to rise early (Lesser, 1933, pp. 311–313). Though not explicitly aimed at their preservation, resistance against the loss of gaming traditions through incorporation into religious practices can also be noted elsewhere, as with the hoop-and-pole game's inclusion in Siksikaitsitapi ceremonies, and both hoop-and-pole and lacrosse's inclusion within Haudenosaunee sacred rites (Engelbrecht et al., 2018, p. 168; Eyman, 1964; Fenton, 1936, pp. 8–9; Allan Pard, cited in Yanicki, 2014, pp. 238–239, pp. 242–243).

While I have argued that the forms that gambling games take should be seen as relatively fluid in historical perspective, the central importance of gambling, integrated as it is within value systems and worldview, should not. In his analysis of the external factors that could bring about such drastic, systemic changes to a core cultural institution, Alexander Lesser (1933, p. xxi, pp. 336–337) was unsparing in his judgement: forced assimilation wrought enormous cultural destruction and offered only superficial alternatives in its place. Revitalization movements like the Ghost Dance hand game are both resistance to and rejection of the imposed values of the dominant society, filling a void in unfulfilled social, intellectual, and spiritual needs. In this setting, the “old games” are retained as a memory, but not extinguished, while operating within the heavily policed constraints of the reservation era.

Nevertheless, the bettor-wager pattern, and particularly the practice of gambling in intergroup settings, has persisted in much the same form as it always had. While travelling the Cochrane River in northern Manitoba in 1939, American adventure-writer P.G. Downes met the main body of the Barren Land Band of the Etthén heldélj (Caribou-eater) Dené, living off the land. Downes wrote at length of the encounter and of his meeting with the group's leaders, including the following about the renowned elder Casmir, or Kasmere:

Many tales are still told of his prowess. He was the first ‘chief’ of the Brochet band.... [I]t was Kasmere... who dictated whatever complaints and slight policy they had. For Kasmere was the greatest hunter and the most expert gambler of them all. No one but Kasmere went to the distant Barrens and there gambled at ‘udzi’ for dogs with their hereditary enemies, the Eskimos. (Downes, 1943, p. 117)

Even at this late date, echoes of themes found throughout the preceding discussion can be found in this brief but remarkable passage: the hint of hunting and gambling prestige going hand-in-hand, travelling great distances for the express purpose of gambling, and *udzi*, the Dene hand game, being played between opponents who might otherwise be at war. Downes reinforced his point, describing how “[s]ometimes four or six men will engage in a sort of mass combat. The

greatest battles have been waged between different bands and peoples,” recalling games between Dene and Nihithaw, or Kasmere's contests against the Inuit, “in which not only wealth and gain but prestige and glory were the stakes” (Downes, 1943, p. 239). Tournament-style play of the hand game today continues to hold much of this character, in which teams drawn from individual communities over considerable areas gather to compete against one another for large cash prizes.

The involvement of barrenlands Inuit in this practice is noteworthy for its rarity. Attesting to the exceptional nature of this contact is Downes's (1943) observation that Kasmere “was the only Chipewyan I had ever heard of who could speak [Inuktitut] and speak it well” (p. 116). Culin (1907, p. 32), suggested that the widespread popularity of the hand game may be a comparatively recent phenomenon, due to suppression of tribal warfare in the colonial era. Similar claims have been made for lacrosse (Stauffer & Reilly, 2017). Be that as it may, it was not only Inuit being drawn into bettor-wager pattern gambling. Downes also related the growing legend of Del Simon, an independent Canadian fur trader who established a post at Nueltin Lake, in what is now Nunavut.

Among many other things he was renowned through the country as a particularly fortunate hand when it came to any game of chance, even *udzi*. The story is still told of the year he passed through Brochet. When he stopped he was asked what he was out to do during the coming fur season and he replied, ‘Trapping!’ and slapping his pocket he continued, ‘Yes, sir, and I got all my traps right here, fifty-two of them.’ When he came down to Brochet at the end of the winter hunt, he had a larger pack of furs than any trapper, white or red, in the country. (Downes, 1943, p. 251)

Though the story is somewhat apocryphal—Downes attributed a certain “Paul Bunyan”-like quality to Simon's fame—the account also reinforces a key observation made throughout the continent. Returning again to Culin's ethnological work, while he found at the turn of the last century that a large proportion of the traditional games he sought to collect were in the process of being abandoned, gambling continued relatively unabated, especially through the use of playing cards (Culin, 1901a, 1901b, 1901c, 1907). A direct replacement of old games for European-derived ones is sometimes made explicit, as with the Walapai dice game *tawfa* for cards (H.P. Ewing, cited in Culin, 1907, p. 208). It is further signified by cards being used in ritual settings, as with the distribution of a deceased person's belongings among the Sisseton Wahpeton Oyate (Yarrow, 1881, p. 195), and by the names for older gambling games being applied instead to cards (Culin, 1907, p. 60, p. 155, p. 182). Horse racing and other “non-

traditional” games have also taken on aspects of agonistic competition for wealth and prestige in recent centuries, while at the same time broadening opportunities for the participation of non-Indigenous contestants (Cliff, 1990; Mitchell, 2020).

Conclusions

In this paper I have only scratched the surface of the rich record of traditional Indigenous games that have been and continue to be played across North America. As the many ethnohistoric examples explored here show, there has long been a fascination with individual games: their distinctive equipment and rules of play, and their associated songs, ceremonies, and origins in ancient oral traditions. This fascination culminated, to a degree, in Stewart Culin’s (1907) efforts to document every known variety of Indigenous North American game. Numerous examples were missed in this work, but it has nevertheless long stood as an unchallenged authority, so much so that Alfred Kidder once rather infamously declared the study of games to be “a sucked orange” (Kidder, 1958, p. 322). Like DeBoer (2001, p. 244), I must contend that it is not.

If I were to allow myself just one complaint against Culin’s work, it is with the encyclopedic nature of his approach, and his interest in tracing lineages of games to ancestral, original forms—a focus which rather misses the forest for branching, phylogenetic trees. This is not to belittle the cultural significance of any single game, which in many cases is profound. Many of these games also doubtless do share common origins, but this is not the only thing that binds them. My aim in this paper has been to show that, amidst the sometimes-boggling array of traditional games in Indigenous North America, a unifying thread can be found in the closely associated act of gambling, and more precisely in the bettor-wager pattern (Flannery & Cooper, 1946) that stipulates who can gamble with whom. The ensuing constraints on competition, or lack thereof, based on kinship and social ties provide a key to understanding the political and economic importance of games, and to the differences in scale between intragroup and intergroup gambling. The bettor-wager pattern lies at the heart of the frequent equivocation between gambling games and warfare. This deep embedding of the economic and political utility of gambling may reflect historical ties between societies better than any individual game.

This same emphasis on gambling as a unifying theme, more so than the histories of individual games, reveals any divide between ancient and contemporary gaming practices to be an artificial one. As a partnered activity, there is an unremitting requirement for gambling games to be mutually intelligible, and consequently to change in accord with changing social landscapes. In terms of the question of sovereignty, as it relates to continent-wide Indigenous gaming and gambling practices, it is this freedom to adapt that I wish most to emphasize here. Gambling across Native

North America does not arise from an externally imposed, Western logic: as any historical examination of the subject shows, it is a deeply embedded and ancient cultural practice. Its logic is one of Indigenous continuity (cf. Simpson, 2014). It is quite reasonable that associations between Indigenous and non-Indigenous communities, as between Indigenous communities with each other, should manifest the same calculus of intergroup gaming. These processes are not passive, but rather reflect conscious and strategic choices, adapted to present conditions and needs and challenging notions of a static, “traditional” past.

There is a clear benefit to this flexibility, reflecting sociopolitical considerations about with whom one wishes to pursue the complexities of a gambling relationship, and economic considerations pertaining to what can be obtained by that relationship. Most readily today, this includes currency—in part given the necessity of playing on terms satisfactory to the commodity holder, but also given currency’s unique ability to be converted into other resource and status gains. For many Indigenous peoples, surficial choices of games played and commodities won or lost continue to coincide with more fundamental aspects of traditional worldviews and engagement with the supernatural world, as well as with enduring principles about how winnings are to be distributed (for an example of how modern casino revenues are used to reinforce community interdependency, see Cattelino, 2008). This would suggest that the adoption of non-traditional games by Indigenous peoples cannot simply be dismissed as a matter of assimilation, or abandonment of traditional practice. Rather, such adaptations can be seen as the continuation of ongoing processes of ethnomorphosis, or ever-changing representations of self-determined identity, as has been done for as long as players of different games have come in contact with one another.

References

- Adair, J. (1775). *The history of the American Indians: Particularly those nations adjoining to the Mississippi, east and west Florida, Georgia, South and North Carolina, and Virginia*. Edward and Charles Dilly.
- Ammerman, A.J., & Cavalli-Sforza, L.L. (1984). *The Neolithic transition and the genetics of populations in Europe*. Princeton University Press. <https://doi.org/10.1515/9781400853113>
- Barry, H., III, & Roberts, J.M. (1972). Infant socialization and games of chance. *Ethnology* 11(3), 296–308. <https://doi.org/10.2307/3773220>
- Beals, R.L. (1933). *Ethnology of the Nisenan*. University of California Publications in American Archaeology and Ethnology 31:6. University of California Press.
- Becker, M.J. (1985). Lacrosse: Political organization in North America as reflected in athletic competition. *Expedition*, 27(2), 53–56.
- Beers, W.G. (1869). *Lacrosse: The national game of Canada*. Dawson Brothers.
- Benedict, R. (1950). *Patterns of culture*. Mentor Books.
- Berndt, C.G. (2008). Kinship as strategic political action: The Northern Cheyenne response to the imposition of the Nation-State. PhD dissertation, University of Minnesota.

- Binde, P. (2005). Gambling across cultures: Mapping worldwide occurrence and learning from ethnographic comparison. *International Gambling Studies*, 5(1), 1–27. <https://doi.org/10.1080/14459790500097913>
- Binnema, T. (2001). *Common and contested ground: A human and environmental history of the northwestern Plains*. University of Oklahoma Press.
- Blom, F. (1932). The Maya ball game *Pok-Ta-Pok* (called *Tlachtli* by the Aztec). In *Middle American Papers*, Tulane University of Louisiana Middle American Research Series, Publication No. 4 (pp. 487–530). Tulane University.
- Boyd, R., Bogerhoff-Mulder, M., Durham, W.H., & Richerson, P.J. (1997). Are cultural phylogenies possible? In P. Weingart, P.J. Richerson, S.D. Mitchell, & S. Maasen (Eds.), *Human by nature: Between biology and the social sciences* (pp. 355–386). Lawrence Erlbaum Associates.
- Boyd, R., & Richerson, P.J. (2005). Solving the puzzle of human cooperation. In S.C. Levinson & P. Jaisson (Eds.), *Evolution and culture: A Fyssen Foundation symposium* (pp. 105–132). MIT Press.
- Brown, J. (2007). On the identity of the Birdman within Mississippian period art and iconography. In F.K. Reilly, III & J.F. Garber (Eds.), *Ancient Objects and Sacred Realms* (pp. 56-106). University of Texas Press.
- Brunton, B. (1998). The stick game. In D.E. Walker (Ed.), *Handbook of North American Indians, Vol. 12: Plateau* (pp. 573–583). Smithsonian Institution.
- Bryan, A. (2006). Description of other artifacts from the disturbed deposits. In R. Gruhn (Ed.), *New excavations at Wilson Butte Cave* (pp. 93-114). Occasional Papers of the Idaho Museum of Natural History, No. 38. Idaho Museum of Natural History.
- Bushnell, A. (1978). "That demonic game": The campaign to stop Indian *pelota* playing in Spanish America, 1675–1684. *The Americas*, 35(1), 1–19. <https://doi.org/10.2307/980923>
- Cameron, C.M., & Johansson, L.D. (2017). The biggest losers: Gambling and enslavement in Native North America. In B. Voorhies (Ed.), *Prehistoric games of North American Indians: Subarctic to Mesoamerica* (pp. 273–285). University of Utah Press.
- Catlin, G. (1841). *Letters and notes on the manners, customs and condition of the North American Indians*, Vol. 1. Toswill & Myers.
- Cattellino, J.R. (2008). *High stakes: Florida Seminole gaming and sovereignty*. Duke University Press.
- Cavalli-Sforza, L.L., Menozzi, P., & Piazza, A. (1994). *The history and geography of human genes*. Princeton University Press.
- Cavalli-Sforza, L.L., Piazza, A., Menozzi, P., & Mountain, J. (1988). Reconstruction of human evolution: Bringing together genetic, archaeological, and linguistic data. *Proceedings of the National Academy of Sciences of the United States of America*, 85(16), 6002–6006. <https://doi.org/10.1073/pnas.85.16.6002>
- Clark, W.P. (1885). *The Indian Sign Language*. L. R. Hamersly.
- Cliff, J.M. (1990). Playing with games: Cheating in Navajo and Euro-American gaming. *Western Folklore*, 49(2), 221–225. <https://doi.org/10.2307/1499409>
- Colpitts, G. (2015). Peace, war, and climate change on the Northern Plains: Bison hunting in the
- Neutral Hills during the mild winters of 1830–34. *Canadian Journal of History*, 50(3), 420–441. <https://doi.org/10.3138/cjh.ach.50.3.002>
- Converse, H.M. (1908). *Myths and legends of the New York State Iroquois*. Bulletin No. 125. New York State Museum.
- Crump, T. (1990). *The anthropology of numbers*. Cambridge University Press.
- Culin, S. (1901a). A summer trip among the western Indians (The Wannamaker expedition), Chapter I. *Bulletin of the Free Museum of Science and Art*, 3(1), 1–22.
- Culin, S. (1901b). A summer trip among the western Indians (The Wannamaker expedition), Chapters II–III. *Bulletin of the Free Museum of Science and Art*, 3(2), 88–122.
- Culin, S. (1901c). A summer trip among the western Indians (The Wannamaker expedition), Chapters IV–VI. *Bulletin of the Free Museum of Science and Art*, 3(3), 143–175.
- Culin, S. (1907). Games of the North American Indians. In *Bureau of American Ethnology, 24th Annual Report, 1902–1903* (pp. 3–809). Smithsonian Institution.
- Curtin, J. (1921). *Seneca Indian Myths*. E.P. Dutton.
- Curtin, J., & Hewitt, J.N.B. (1918). Seneca fiction, legends, and myths. In *Bureau of American Ethnology, 32nd Annual Report, 1910–1911* (pp. 37–814). Smithsonian Institution.
- Cushman, H.B. (1899). *History of the Choctaw, Chickasaw, and Natchez Indians*. Headlight Printing House.
- Davis, J.E. (2006). A historical linguistic account of sign language among North American Indian groups. In C. Lucas (Ed.), *Multilingualism and sign languages: From the Great Plains to Australia; Sociolinguistics of the deaf community*, Vol. 12 (pp. 3–35). Gallaudet University Press.
- Davis, J.E. (2010). *Hand talk: Sign language among American Indian nations*. Cambridge University Press.
- DeBoer, W.R. (2001). Of dice and women: Gambling and exchange in Native North America. *Journal of Archaeological Method and Theory*, 8(3), 215–268.
- Desmond, G.R. (1952). *Gambling among the Yakima*. Anthropological Series No. 14. Catholic University of America Press.
- Diehl, R. (2004). *The Olmecs: America's first civilization*. Thames & Hudson.
- Dorsey, G.A. (1906). *The Pawnee mythology*. Publication No. 59. Carnegie Institution.
- Downes, P.G. (1943). *Sleeping Island: The story of one man's travels in the great barren lands of the Canadian north*. Coward-McCann.
- Durán, D. (1971 [1574–1579]). *Book of the gods and rites and the ancient calendar*. H. Fernando & D. Heyden (Trans. & eds.). University of Oklahoma Press.
- Durham, W.H. (1992). Applications of evolutionary culture theory. *Annual Review of Anthropology*, 21, 331–355. <https://doi.org/10.1146/annurev.an.21.100192.001555>
- Dye, D.H. (2017). The sacred role of dice games in eastern North America: Implications for the protohistoric Lower Mississippi valley. In B. Voorhies (Ed.), *Prehistoric Games of North American Indians: Subarctic to Mesoamerica* (pp. 87–103). University of Utah Press.
- Eaglesmith, J.C. (1976). The Native American ball games. In M. Hart (Ed.), *Sport in the sociocultural process* (pp. 346-358). Wm. C. Brown Co.
- Engelbrecht, W., Allen, K., Fox, B., Herbstritt, J., Kwoka, J., Lenig, W., & Sempowski, M. (2018). Stone disks in Iroquoia. *Iroquoia*, 4, 41–75.
- Erodes, R. (1972). *The Sun Dance people*. Alfred A. Knopf.
- Evans, S.T. (2017). Aztec gambling and magical thinking. In B. Voorhies (Ed.), *Prehistoric games of North American Indians: Subarctic to Mesoamerica* (pp. 259–272). University of Utah Press.
- Ewers, J.C. (1958). *The Blackfeet: Raiders on the northwestern Plains*. University of Oklahoma Press.
- Eyman, F. (1964). Lacrosse and the Cayuga Thunder Rite. *Expedition*, 6(4), 15–19.
- Eyman, F. (1965). American Indian gaming arrows and stick-dice. *Expedition*, 7(4), 39–47.
- Faraud, H. (1863, June 1). [Letter to Alexandre-Antonin Taché, trans. from French]. Archives Deschâtelets (HE 2221 T12Z 64). Copy of original from Archives de l'archevêché de St-Boniface.
- Fenton, W.N. (1936). An outline of Seneca ceremonies at Coldspring Longhouse. *Yale University Publications in Anthropology*, 9, 1–23.
- Fidler, P. (1792–1793). Journal of a journey over land from Buckingham House to the Rocky Mountains in 1792 & 3. Hudson's Bay Company Archives E.3/2.
- Flannery, R., & Cooper, J.M. (1946). Social mechanisms in Gros Ventre gambling. *Southwestern Journal of Anthropology*, 2(4), 391–419.

- Fletcher, A. (1915). Indian games and dances with Native songs. C.C. Birchard. Facsimile reprint 1994, Indian games and dances with Native songs: Arranged from American Indian ceremonials. University of Nebraska Press.
- Fogelson, R. (1962). The Cherokee ball game: A study in Southeastern ethnology. PhD dissertation, University of Pennsylvania.
- Gabriel, K. (1996). *Gambler Way: Indian gaming in mythology, history, and archaeology in North America*. Johnson Books.
- Geertz, C. (1973). Deep play: Notes on the Balinese cockfight. In C. Geertz (Ed.), *The Interpretation of Cultures* (pp. 417–52). Basic Books.
- George, R.L. (2001). Of discoidals and Monongahela: A league of their own? *Archaeology of Eastern North America*, 29, 1–18.
- Gillespie, S.D. (1991). Ballgames and boundaries. In V.L. Scarborough & D.R. Wilcox (Eds.), *The Mesoamerican Ballgame* (pp. 317–345). University of Arizona Press.
- Goetz, D., & Morley, S. (Eds.). (1950). *Popol Vuh: The sacred book of the ancient Quiché Maya*. University of Oklahoma Press.
- Goodwin, G. (1942). *The social organization of the Western Apache*. University of Chicago Press.
- Grinnell, G.B. (1923). *The Cheyenne Indians: Their history and ways of life*, Vol. 2. Yale University Press.
- Gunther, E. (1927). *Klallam ethnography*. Publications in Anthropology 1, Part 5. University of Washington.
- Hall, M.A. (2009). The distribution of gaming pieces across the Fremont culture area with a focus on the Parowan Valley. *Utah Archaeology*, 22(1), 31–50.
- Hallson, J. (2017). A quantitative analysis of Promontory Cave 1: An archaeological study on population size, occupation span, artifact use-life, and accumulation. Master's thesis in Anthropology, University of Alberta.
- Hann, J.H. (1988). *Apalachee: The land between the rivers*. University Press of Florida.
- Hawkes, K., & Bliege Bird, R. (2002). Showing off, handicap signaling, and the evolution of men's work. *Evolutionary Anthropology*, 11(2), 58–67. <https://doi.org/10.1002/evan.20005>
- Hearne, S. (1795). *A journey from Prince of Wales's Fort in Hudson's Bay, to the northern ocean*. A. Strahan & T. Cadell.
- Hill, W.D., Blake, M., & Clark, J.E. (1998). Ball court design dates back 3,400 years. *Nature* 392(6679), 878–879.
- Hoebel, E.A. (1978). *The Cheyennes*. Holt, Rinehart and Winston.
- Hogg, M.A. (2006). Social identity theory. In P.J. Burke (Ed.), *Contemporary social psychological theories* (pp. 111–136). Stanford University Press.
- Howard, J.H. (1965). *The Ponca tribe*. Bureau of American Ethnology, Bulletin 195. Smithsonian Institution.
- Hudson, C.M. (1976). *The Southeastern Indians*. University of Tennessee Press.
- Huizinga, J. (1955). *Homo ludens: A study of the play element in culture*. Beacon Press.
- Ives, J.W., Froese, D.G., Janetski, J.C., Brock, F., & Bronk Ramsey, C. (2014). A high resolution chronology for Steward's Promontory Culture collections, Promontory Point, Utah. *American Antiquity*, 79(4), 616–637. <https://doi.org/10.7183/0002-7316.79.4.616>
- James, E. (1823). *Account of an expedition from Pittsburgh to the Rocky Mountains, Performed in the Years 1819 and '20, by order of the Hon. J.C. Calhoun, Sec'y of War under the command of Major Stephen H. Long*, Vol. 2. H.C. Carey and I. Lea, Chesnut St.
- Janetski, J.C. (2002). Trade in Fremont society: Contexts and contrasts. *Journal of Anthropological Archaeology*, 21(3), 344–370. [https://doi.org/10.1016/S0278-4165\(02\)00003-X](https://doi.org/10.1016/S0278-4165(02)00003-X)
- Jones, C.C. (1873). *Antiquities of the Southern Indians: Particularly of the Georgia tribes*. D. Appleton.
- Kehoe, A.B. (2006). *The Ghost Dance: Ethnohistory & revitalization*, 2nd ed. Waveland.
- Kidder, A.V. (1958). *Pecos, New Mexico: Archaeological notes*. Papers of the Robert S. Peabody Foundation for Archaeology 5. Phillips Academy.
- Kroeber, A.L. (1948). *Anthropology: Race, language, culture, psychology, prehistory*. Harcourt, Brace & Co.
- Lahontan, L.A. (1703). *New Voyages to North America*, Vol. 2. H. Bonwicke, T. Goodwin, M. Wotton, B. Tooke, & S. Manship.
- Lakevold, C.D. (2017). Space and social structure in the A.D. 13th century occupation of Promontory Cave 1, Utah. Master's thesis in Anthropology, University of Alberta.
- Landes, R. (1971). *The Ojibwa woman*. Contributions to Anthropology 31. Columbia University.
- Lankford, G.E. (2008). *Looking for lost lore: Studies in folklore, ethnology, and iconography*. University of Alabama Press.
- Lederer, J. (1672). *The discoveries of John Lederer in three several marches from Virginia to the west of Carolina and other parts of the continent begun in March, 1669 and ended in September, 1670*. Sir William Talbot (Ed.). Samuel Heyrick.
- Lesser, A. (1933). *The Pawnee Ghost Dance hand game*. Contributions to Anthropology No. 16. Columbia University Press.
- Lowie, R.H. (1920). *Primitive society*. Boni & Liveright.
- Loy, J.W., & Hesketh, G.L. (1995). Competitive play on the Plains: An analysis of games and warfare among Native American warrior societies, 1800–1850. In A.D. Pellegrini (Ed.), *The future of play theory: A multidisciplinary inquiry into the contributions of Brian Sutton-Smith* (pp. 73–105). State University of New York Press.
- Majewski, T. (1986). Ice gliders – introduction. In W.R. Wood (Ed.), *Ice Glider 320L110* (pp. 104–108). Special Publication Number 10. South Dakota Archaeological Society.
- Mallery, G. (1881). Sign language among North American Indians compared with that among other peoples and deaf-mutes. In *First annual report of the Bureau of Ethnology to the Secretary of the Smithsonian Institution, 1879-1880* (pp. 263–552). Government Printing Office.
- Manitowabi, D. (2021). Gambling with the Windigo: Theorizing Indigenous casinos and gambling in Canada. *Critical Gambling Studies*, 2, 113-122.
- Matthews, W. (1889). Noqoilpi, the gambler: A Navajo myth. *Journal of American Folklore*, 2(5), 89–94.
- Matthews, W. (1897). *Navaho legends*. Houghton & Mifflin.
- Meeker, L.L. (1901). Ogalala games. *Bulletin of the Free Museum of Science and Art*, 3(1), 23–46.
- Milanich, J. (1995). *Florida Indians and the invasion from Europe*. University Press of Florida.
- Miller, M.E., & Houston, S.D. (1987). The classic Maya ballgame and its architectural setting: A study of relations between text and image. *Res*, 14(Autumn), 46–65.
- Mitchell, P. (2020). 'A horse-race is the same all the world over': The cultural context of horse racing in Native North America. *International Journal of the History of Sport*, 37(3–4), 337–356. <https://doi.org/10.1080/09523367.2020.1758672>
- Molina, J.L., Lubbers, M.J., Valenzuela-García, H., & Gómez-Mestres, S. (2017). Cooperation and competition in social anthropology. *Anthropology Today*, 33(1), 11–14. <https://doi.org/10.1111/1467-8322.12323>
- Mooney, J. (1898). Calendar history of the Kiowa Indians. In *Seventeenth annual report of the Bureau of American Ethnology to the Secretary of the Smithsonian Institution, 1895–96*, Part 1 (pp. 129–444). Government Printing Office.
- Mooney, J., & Olbrechts, F.M. (1932). *The Swimmer manuscript: Cherokee sacred formulas and medicinal prescriptions*. Bureau of American Ethnology Bulletin No. 99. Government Printing Office.
- Moore, J.H. (1994a). Putting anthropology back together again: The ethnogenetic critique of cladistic theory. *American Anthropologist*, 96(4), 925–948.
- Moore, J.H. (1994b). Ethnogenetic theory. *National Geographic Research and Exploration*, 10(1), 10–23.

- Moreno-Mayar, J.V., Potter, B.A., Vinner, L., Steinrücken, M., Rasmussen, S., Terhorst, J., Kamm, J.A., Albrechtsen, A., Malaspinas, A.-S., Sikora, M., Reuther, J.D., Irish, J.D., Malhi, R.S., Orlando, L., Song, Y.S., Nielsen, R., Meltzer, D.J., & Willerslev, E. (2018). Terminal Pleistocene Alaskan genome reveals first founding population of Native Americans. *Nature*, 553(7687), 203–207. <https://doi.org/10.1038/nature25173>
- Morgan, L.H. (1904). *League of the Ho-dé-no-sau-nee or Iroquois*. Dodd, Mead, & Co.
- Morice, A.G. (1894). *Notes, archaeological, industrial and sociological on the Western Dénés, with an ethnographical sketch of the same*. Copp, Clark.
- Ortiz, C.P., & Rodríguez, M.C. (1999). Olmec ritual behavior at El Manatí: A sacred space. In D.C. Grove & R.A. Joyce (Eds.), *Social patterns in Pre-Classic Mesoamerica: A symposium at Dumbarton Oaks, 9 and 10 October 1993* (pp. 225–254). Dumbarton Oaks Research Library and Collection.
- Parlett, D. (1999). *The Oxford history of board games*. Oxford University Press.
- Parsons, E.C. (1996). *Pueblo Indian religion*. University of Nebraska Press.
- Pauketat, T.R. (2004). *Ancient Cahokia and the Mississippians*. Cambridge University Press.
- Pauketat, T.R. (2009). *Cahokia: Ancient America's great city on the Mississippi*. Viking.
- Perino, G.H. (1971). The Mississippian component at the Schild Site (No. 4), Green County, Illinois. In J.A. Brown (Ed.), *Mississippian site archaeology in Illinois 1: Site reports from the St. Louis and Chicago Areas* (pp. 1–148). Illinois Archaeological Survey Bulletin 8. University of Illinois.
- Price, J.A. (1972). Gambling in traditional Asia. *Anthropologica*, 14(2), 157–180. <https://doi.org/10.2307/25604876>
- Pryor, F.L. (1976). The Friedman-Savage utility function in cross-cultural perspective. *Journal of Political Economy*, 84(4:1), 821–34.
- Radin, P. (1948). *Winnebago hero cycles: A study in Aboriginal literature*. Waverly Press.
- Ray, V.F. (1963). *Primitive pragmatists: The Modoc Indians of northern California*. University of Washington Press.
- Reich, D., Patterson, N., Campbell, D., Tandon, A., Mazieres, S., Ray, N., Parra, M.V., Rojas, W., Duque, C., Mesa, N., García, L.F., Triana, O., Blair, S., Maestre, A., Dib, J.C., Bravi, C.M., Bailliet, G., Corach, D., Hünemeier, T., ... & Ruiz-Linares, A. (2012). Reconstructing Native American population history. *Nature*, 488(7411), 370–374. <https://doi.org/10.1038/nature11258>
- Richerson, P.J., & Boyd, R. (2005). *The origin and evolution of cultures*. Oxford University Press.
- Roberts, J.M., & Sutton-Smith, B. (1962). Child training and game involvement. *Ethnology*, 1(2), 166–185.
- Roberts, J.M., & Sutton-Smith, B. (1966). Cross-cultural correlates of games of chance. *Behavior Science Notes*, 1(3), 131–44. <https://doi.org/10.1177/106939716600100301>
- Romans, B. (1776). *A concise natural history of east and west Florida*, Vol. 1. R. Aitken.
- Sahlins, M. (1972). *Stone Age economics*. Aldine Atherton.
- Sahlins, M. (1976). *The use and abuse of biology: An anthropological critique of sociobiology*. University of Michigan Press.
- Schoolcraft, H.R. (1853). *Information respecting the history, condition, and prospects of the Indian tribes of the United States*, Vol. 2. Lippincott, Granbo, & Co.
- Schwarz, M.T. (2012). Fire Rock: Navajo prohibitions against gambling. *Ethnohistory*, 59(3), 515–540. <https://doi.org/10.1215/00141801-1587451>
- Shennan, S., & Collard, M. (2005). Investigating processes of cultural evolution on the north coast of New Guinea with multivariate and cladistic analyses. In R. Mace, C.J. Holden, & S. Shennan (Eds.), *The evolution of cultural diversity: A phylogenetic approach* (pp. 133–164). UCL Press. <https://doi.org/10.4324/9781315418612>
- Simpson, A. (2014). *Mohawk interruptus: Political life across the borders of settler states*. Duke University Press. <https://doi.org/10.2307/j.ctv1198w8z>
- Smith, M.W. (1940). *The Puyallup-Nisqually*. Contributions to Anthropology 32. Columbia University Press.
- Speck, F.G. (1945). *The Iroquois*. Vol. 23. Bulletin of the Cranbrook Institute of Science.
- Speck, F.G. (1949). *Midwinter rites of the Cayuga Long House*. University of Pennsylvania Press.
- Spier, L. (1938). *The Sinkaietk or Southern Okanagon of Washington*. Contributions from the Laboratory of Anthropology 2, General Series in Anthropology 6. George Banta.
- Squier, E.G. (1849). *Aboriginal monuments of the State of New York*. Smithsonian Contributions to Knowledge, Vol. 2. Smithsonian Institution.
- Stauffer, J.G., & Reilly, F.K., III (2017). Playing the Apalachee ballgame in the fields of the Thunder God: Archaeological and ideological evidence for its antiquity. In B. Voorhies (Ed.), *Prehistoric games of North American Indians: Subarctic to Mesoamerica* (pp. 34–47). University of Utah Press.
- Stevenson, M.C. (1904). The Zuñi Indians. In *Bureau of American Ethnology, 23rd Annual Report* (pp. 1–608). Smithsonian Institution.
- Steward, J.H. (1937). *Ancient caves of the Great Salt Lake region*. Bureau of American Ethnology Bulletin 116. Smithsonian Institution.
- Steward, J.H. (1941). *Culture element distributions XIII. Nevada Shoshoni*. Anthropological Records 4, Part 2. University of California.
- Stuart, R.C. (1972). An anthropological framework for the study of gambling. Master's thesis in anthropology, University of British Columbia.
- Sutton-Smith, B., & Roberts, J.M. (1964). Rubrics of competitive behavior. *Journal of Genetic Psychology*, 105(1), 13–37. <https://doi-org/10.1080/00221325.1964.10533643>
- Sutton-Smith, B., Roberts, J.M., & Kozelka, R.M. (1963). Game involvement in adults. *Journal of Social Psychology*, 60(1), 15–30. <https://doi-org/10.1080/00224545.1963.9714357>
- Swanton, J.R. (1928). Social organization and social usages of the Indians of the Creek Confederacy. In *Forty-second annual report of the Bureau of American Ethnology, 1924–1925* (pp. 22–472). Government Printing Office.
- Tajfel, H., Billig, M.G., Bundy, R.P., & Flament, C. (1971). Social categorization and intergroup behaviour. *European Journal of Social Psychology*, 1(2), 149–178. <https://doi-org/10.1002/ejsp.2420010202>
- Textor, R.B. (1967). *A cross-cultural summary*. HRAF.
- Thompson, D. (1916). *David Thompson's narrative of his explorations in western North America, 1784–1812*. J. B. Tyrrell (Ed.), Publications of the Champlain Society 12.
- Turner, J.C., Hogg, M.A., Oakes, P.J., Reicher, S.D., & Wetherell, M.S. (1987). *Rediscovering the social group: A self-categorization theory*. Basil Blackwell.
- Turney-High, H.H. (1942). *The practice of primitive war*, Vol. 1. University of Montana Publications in the Social Sciences, No. 2.
- Vansina, J. (1990). *Paths in the rainforests: Toward a history of political tradition in equatorial Africa*. University of Wisconsin Press.
- Vennum, T., Jr. (1994). *American Indian lacrosse: Little brother of war*. Smithsonian Institution Press.
- Voorhies, B. (2013). The deep history of Indian gaming: Possible Late Archaic game boards at the Tlacuachero Shellmound, Chiapas, Mexico. *Latin American Antiquity*, 24(1), 98–115.
- Walde, D.A. (2003). *The Mortlach Phase*. Occasional Papers No. 2. Archaeological Society of Alberta.
- Walker, J.R. (1905). Sioux games – I. *Journal of American Folklore*, 18(71), 277–290. <https://doi.org/10.2307/534697>
- Wallis, W.D., & Wallis, R.S. (1955). *The Micmac Indians of eastern Canada*. University of Minnesota Press.

- Weiner, R.S. (2018). Sociopolitical, ceremonial, and economic aspects of gambling in ancient North America: A case study of Chaco Canyon. *American Antiquity*, 83(1), 34–53. <https://doi.org/10.1017/aaq.2017.45>
- Weltfish, G. (1937). *Caddoan texts: Pawnee, South Band dialect*. Publication No. 17, American Ethnological Society.
- Whittington, E.M. (Ed.). (2001). *The sport of life and death: The Mesoamerican ballgame*. Thames & Hudson.
- Williams, R. (1963). *The complete writings of Roger Williams*. Russell and Russell.
- Wood, W. (1634). *Nevv Englands prospect: A true, lively, and experimentall description of that part of America, commonly called Nevv England*. Tho. Cotes for Iohn Bellamie.
- Wood, W.R. (1980). Plains trade in prehistoric and protohistoric intertribal relations. In W.R. Wood & M. Liberty (Eds.), *Anthropology on the Great Plains* (pp. 98–109). University of Nebraska Press.
- Wulff, R.L. (1977). Lacrosse among the Seneca. *The Indian Historian*, 10(2):16–22.
- Wurtzburg, S., & Campbell, L. (1995). North American Indian sign language: Evidence for its existence before European contact. *International Journal of American Linguistics*, 61(2), 153–167.
- Yanicki, G.M. (2014). *Old Man's Playing Ground: Gaming and trade on the Plains/Plateau frontier*. Mercury Series Archaeology Paper No. 137. Canadian Museum of History/University of Ottawa Press.
- Yanicki, G.M. (2017). Reinventing the wheel game: Prestige gambling on the Plains/Plateau frontier. In B. Voorhies (Ed.), *Prehistoric games of North American Indians: Subarctic to Mesoamerica* (pp. 104–118). University of Utah Press.
- Yanicki, G.M. (2019). Promontory–Fremont contact and ethnogenesis in the Post-Formative eastern Great Basin. PhD dissertation, University of Alberta.
- Yanicki, G.M., & Ives, J.W. (2017). Mobility, exchange, and the fluency of games: Promontory in a broader sociodemographic perspective. In B. Voorhies (Ed.), *Prehistoric games of North American Indians: Subarctic to Mesoamerica* (pp. 139–162). University of Utah Press.
- Yarrow, H.C. (1881). A further contribution to the study of the mortuary customs of the North American Indians. In J.W. Powell (Ed.), *First annual report of the Bureau of Ethnology to the Secretary of the Smithsonian Institution, 1879-1880*. Government Printing Office.
- Zych, T.J. (2017). Chunkey and the historic experience in the Mississippian world. In B. Voorhies (Ed.), *Prehistoric games of North American Indians: Subarctic to Mesoamerica* (pp. 63–86). University of Utah Press.

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WAI 1909 – The Waitangi Tribunal Gambling Claim: How will it Improve the Health Outcomes for young Māori People?

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Abstract: In 2008, I lodged a claim with the Waitangi Tribunal in regard to problem gambling and its negative impacts on Māori people. The Tribunal is tasked with hearing grievances related to *Te Tiriti o Waitangi* (The Treaty of Waitangi) signed in 1840 between Māori and the British Crown. It is a historical claim focused on the lack of adequate protection of *taiohi* Māori (young people of Māori descent) and the intergenerational harm caused by problem gambling among their *whānau*, *hapū*, *iwi* (extended families and relatives) and urban Māori communities. However, this begs the question how can a Treaty claim improve the health outcomes of a generation of *taiohi* Māori who have been exposed to commercial gambling and its aggressive and targeted expansion and marketing? This paper frames the WAI-1909 claim as a *Kaupapa Māori* (Māori research approach) derived from the research of three *wahine toa* (warrior women) supporting the claim; and refers to epistemological standpoints of Māori women working in the gambling research space. I demonstrate how the gambling claim challenges the New Zealand government to honour the promises in the articles of *Te Tiriti o Waitangi* and to protect the rights of its citizens, especially *taiohi* Māori. The WAI-1909 gambling claim concludes that whilst the New Zealand Gambling Act (2003) includes a public health approach to problem gambling, it has not adequately addressed the rights of *tangata whenua* (Māori, the first people of Aotearoa/New Zealand) under *Te Tiriti o Waitangi*.

Introduction

I am honored to be invited to contribute an article toward this special issue of *Critical Gambling Studies* on Indigenous gambling. It has been over 12 years since I lodged the WAI-1909 gambling claim and over 2 years since I completed my doctoral research on young people's perspectives on gambling among their families and communities (Herd, 2018). My research was undertaken primarily to gather evidence to support the arguments in my claim. This paper will focus on the WAI 1909 (or 'Pokies') claim, explain its historical background, purpose and rationale and highlight the role of Māori *wahine toa* (women warriors) who are the driving force behind many of the claims that have been heard in recent times by the Waitangi Tribunal.

As I am writing this paper, a hearing is being held to address the *Mana Wahine* claim that was lodged over 25 years ago by several Māori women leaders, some of whom are no longer alive to give evidence. An urgent hearing was granted recently to Ngā MAIA (The Māori Association of Midwives of Aotearoa). This group was represented by Māori lawyer and activist Annette Sykes (2020) who challenged the government about the illegal uplifts of newborn Māori babies from their young

mothers. She shared this exchange with the Tribunal's Judge on the case:

Judge... What do you achieve by challenging Crown policy and practice in Waitangi Tribunal?

Me... Exposing the Structural racism perpetuated by the frameworks and institutions you practice amongst which deny Māori authority over our most precious institutions our children our whānau, our hapū².

Judge... Do you really think you will change anything?

Me... More than you will achieve with that defeatist attitude. Our people deserve change... reimagined opportunity... exposure of the daily oppression they confront... peeling back the layers of colonisation that operate to marginalise them... authority to determine the day to day needs of whānau and resources to navigate that (Sykes, 2020).

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² Families and extended families.

The impetus for the WAI 1909 'Pokies' claim comes from the legacy of several *wahine toa*, two of whom have passed away and will be remembered sadly when it comes time to present the evidence. I had applied for an urgent Tribunal hearing when the Sky City Casino applied for an extension of its licence to build a new convention centre in Auckland, effectively giving them more space to install more pokies. Sykes' (2020) argument speaks of institutional racism that '*deny Māori authority over our most precious institutions our children, our whānau, our hapū*' and makes me more determined to push for a hearing of WAI-1909 gambling / 'pokies' claim and reminds me of the obligation I have to ensure that the evidence I gathered from the young people I interviewed for my doctoral research is presented before the Waitangi Tribunal.

WAI-1909: The 'Pokies' Claim

Māori researchers Lorna Dyall and Laurie Morrison state that problem gambling among Māori is a Treaty issue as it is linked to other health and social ills that have beset Māori since the signing of the Treaty of Waitangi in 1840 (Dyall & Morrison, 2002). The Tribunal makes no promise to return any land, nor compensation for the loss of land. However, the accelerated loss of land, and with that inherently, the language and cultural practices, has in turn diminished Māori *mana* (prestige and dignity). Our physical, mental, emotional and spiritual wellbeing is encompassed by the land. This profound loss has ongoing collateral damage to the health and wellbeing of the future generations. The WAI-1909 claim itself is opened with a *pepeha*, using the appropriate land marks to inform the readers or listeners where my people come from:

Ko Taranaki te maunga - Taranaki is the mountain
Ko Waitara te awa - Waitara is the river
Ko Te Ātiawa te iwi - Te Ātiawa is the nation (Herd, 2008).

I also utilised a quote written in te reo Māori from the preamble to *Te Tiriti O Waitangi*.

Na ko te Kuini e hiahia ana kia wakaritea te
Kawanatanga kia kaua ai nga kino e puta mai ki
te tangata Maori ki te Pakeha e noho ture kore
ana. (Herd, 2008).

My translation follows: The Queen expresses her desire to form a government so that Māori people will not be harmed through the lawless actions of Pākehā (British citizens).

A claimant must be a descendent of a New Zealand Māori. My mother is from Te Ātiawa, a large *Iwi* (nation) of several thousand people residing along the west coast of the North Island and the top of the South Island. Interestingly, my *hapū* and *iwi* in the northernmost part of Taranaki were not signatories to the Treaty of Waitangi. Our close relatives, who migrated further

south, signed copies of the document in the various parts of the country where they were domiciled following inter-tribal warfare, prior to the arrival of Europeans. I was required to name the section of the Act and any subsections.

My name is Ruth Ann Herd. I am a descendent of Ngā Puketūrua and Puketapu Hapū of Te Ātiawa ki Taranaki and wish to lodge a claim to the Waitangi Tribunal under Section 6 of the Treaty of Waitangi Act 1975, (Subsection (1) d.)

The second criteria must give a time frame that the claim relates to and state which article of the Te Tiriti has been breached.

My claim relates to the Crown's failure to monitor and regulate non-casino gaming machines when they were first introduced in New Zealand in 1988, until the introduction of the Gambling Act (2003). The Crown's failure to act in the duty of care and protection of Māori citizens is a breach of Article Three of the Treaty of Waitangi and has resulted in gambling machine venues proliferating throughout New Zealand mostly in areas of high deprivation and with high Māori populations (Herd, 2008).

The WAI-1909 claim is also known as the 'Pokies claim'. That is because the claim argues that Māori problem gambling statistics increased rapidly after Non-Casino Gaming Machines or Pokies were introduced into local bars and clubs. Dyall (2003, 2007, 2009) estimated that Māori problem gambling is two to three times higher than that of non-Māori and that for each problem gambler who is Māori; up to 7 others are negatively affected. The claim asserts that the Crown is responsible for their failure to care and protect Māori youth from the increased exposure to gambling opportunities and the resultant harm from problem gambling among *whānau*, *hapū*, *Iwi* and urban Māori communities. While my claim is not specific to my own *Iwi*, I can also testify as an individual who has witnessed the impacts of gambling through my work in the gambling field and I can also speak to the intergenerational impacts of gambling in my life. The preface chapter of my doctoral thesis may suffice as a testimonial as my research raised awareness of my experiences of gambling-related harm within my own *whānau*. There were numerous research reports generated from the work I did as a problem gambling project coordinator and two doctoral theses were produced since that time that may be used as evidence.

The background to my claim was the formation of a national gambling reference group named *Te Herenga Waka o Te Ora Whānau Trust* in 2001 by Māori health service providers in response to the growing crisis. Its role was to advocate for Māori Treaty rights in regard to the government's proposed gambling legislation known as the Responsible Gambling Bill. Leaders aimed to ensure that the government funded appropriate and

equitable services for Māori, especially women who by this time were calling the Gambling Helpline in greater numbers, disproportionately to Pākehā (NZ European) and migrant groups (Herd & Richards, 2004).

I had attended several meetings of the reference group prior to lodging my claim and raised the idea of developing a claim to the Tribunal. The Trustees asked me to draft a document and present it at a future meeting. I attended another meeting to formally table my request for support for the claim. The Trustees unanimously passed the motion to support the claim that was lodged by me on behalf of young Māori people who were "growing up with gambling". The claim registration number WAI 1909 was received the following year.

Over 2000 submissions were received by the Tribunal prior to the cut-off date. It appeared the government had only envisaged land-related grievances and had no idea what to do with claims around social issues and decided to group similar topics together as *kaupapa* (topical) inquiries. I received a copy of the memorandum of the Chairperson in 2015 informing me about the process that would be conducted in regard to my claim (Waitangi Tribunal, 2015). WAI-1909 was grouped with eleven other claims related to mental health, addictions and other social issues such as the *Mana Wahine* claim. The first *kaupapa* claims hearing was held in November 2019. This was a group claim WAI-2757 lodged by Māori health providers that relates to the provision of health services to Māori.

When I heard that the first *kaupapa* inquiry was underway I contacted the Tribunal to enquire as to the status of my claim. I was told that my claim was not included in this first round but it will be included in the schedule for the second *kaupapa* hearing. I also asked the Tribunal for financial support to prepare evidence for the hearing and named Dr. Lorna Dyall and Dr. Laurie Morrison as my co-researchers. These two colleagues reminded me that the Tribunal is like a lion with no teeth as it only has capacity to make recommendations to the government and compensation would not be offered in these *kaupapa* inquiries, as per the land claims that have reached financial settlements in various parts of the country. Nonetheless, they have both agreed to support the claim when it is time to present evidence to the Tribunal.

Historical Context

The historical context for the claim begins with the original settlers of these beautiful islands and the consequences of European settlement several centuries later. The first of two large islands discovered by Polynesian voyagers was named *Aotearoa* by Kupe's wife Hine-Te-Aparangi who caught sight of the clouds billowing across the horizon and called out "*He Ao! he Ao!*" ("A cloud! a cloud!") (McClintock, 1966). *Aotearoa* literally means "land of the long white cloud".

The first human occupants called themselves *tangata whenua* (people of the land). These Polynesian voyagers

adapted to the much cooler climate in comparison to the tropical islands of the central Pacific and had a complex social system based on shared cultural beliefs, practices and language. *Tohunga* (Seers) were the tribal knowledge keepers, healers and way-showers, including the navigators who were able to read the patterns of the currents and waves in relation to land, and use the positions of the stars, sun and moon and the movement of birds to guide ocean voyages across *Te Moana Nui a Kiwa* (the great ocean of Kiwa).

Aotearoa was governed by a social system based on two main concepts, *tapu* and *noa* (sacred and profane) and a third concept *rāhui* (restrictions) that monitored and controlled peoples' interactions with one another and the natural world. Māori observed these concepts in ceremonial and everyday life activities. Durie (2001) referred to this as the original Māori public health system and suggested that the concept of *rāhui* be adapted to protect people from the ravages of communicable diseases and addictions such as alcohol, drugs and gambling introduced by white settler populations to various parts of the world including New Zealand. While *Aotearoa* is still known as the Land of the long white cloud, some of us cynically also refer to it as "the land of the wrong white crowd".

From the middle of the 15th Century, European monarchies sent explorers to the far reaches of the planet and divided the riches amongst themselves using a mechanism called the "Doctrine of Discovery". This was a blueprint to colonize and conquer non-Christian peoples in order to gain access to the local resources by subjugating local people. If the colonisers were fortunate, they were met with minimal resistance from the natives. Where resistance was encountered, Treaties were written up and presented to leaders to sign to symbolize their agreement.

The first boatload of Europeans to map these islands, captained by Dutchman Abel Tasman, was enroute to find the great southern continent in the 17th century. Tasman named his discovery Staten Landt, thinking it was a landmass near the tip of South America. A cartographer Joan Blaeu later renamed it Nieuw Zealand after a place in Holland. A century later, Captain James Cook circumnavigated the two main Islands and renamed them New Zealand. The name was later transliterated as *Niu Tirenī* in the Māori language and was written as such in the Māori language version of *Te Tiriti o Waitangi*. It was not long before whalers, sealers and traders arrived from various parts of Europe, followed by missionaries of various Christian denominations. The missionaries and some of the chiefs were disturbed by the lawlessness and drunken debauchery that was taking place in Kororareka (now named Russell) and a plan was hatched to draft a Treaty to bring law and order to the new colony. A precursor to the Treaty was *Te Whakaputanga o Ngā Rangatira o Niu Tirenī* (also known as) the Declaration of Independence signed on October 28, 1835 by some thirty Northern

chiefs and a few from the South. Five years later it was superseded by another Treaty.

Te Tiriti o Waitangi/The Treaty of Waitangi was signed on February 6, 1840 between Māori chiefs and Lt. William Busby on behalf of the British Crown. The first of three articles gave the Crown the right to establish a government. The second article guaranteed Māori protection and the undisturbed possession of their lands, forests and fisheries and all their treasures, while at the same time gave the Crown preemption over any land sales. The third article also gave the Crown *kawanatanga* or governance and assured Māori equal rights as British citizens. The key difference between the Declaration and the Treaty was the wording. In the Declaration Tino Rangatiratanga (self-determination) was guaranteed while the Treaty used the term *Kawanatanga* (governance) instead.

Multiple copies of the Treaty were signed by over 500 hereditary chiefs around the country. The first English language treaty was only signed by about 50 individuals. The rest signed the Māori language version. There has been much controversy over the differences in the English and Māori versions of the Treaty and the various copies that were circulated following the signing of the first Treaty document in Waitangi.

There are key differences in the wording of the two versions of the Treaty that continues to be a bone of contention for Māori constitutional reformers such as lawyer Moana Jackson who argues that the Māori language version of the Treaty should be upheld instead of the English language version under the rule of *contra proferentum*, which is defined according to the Ontario Court of Appeal, with reference to *R v White*:

Further, if there is any ambiguity in the words or phrases used, not only should the words be interpreted as against the framers or drafters of such treaties, but such language should not be interpreted or construed to the prejudice of the Indians if another construction is reasonably possible (as cited in Suter, 2014, p. 5).

Several *Iwi* have argued that they never ceded *tino rangatiratanga* (self-determination or sovereignty) including Ngāpuhi, whose chiefs were among the first to sign *Te Tiriti O Waitangi*. The interpretation of the principles of *Te Tiriti* meant that the promises implicit in those principles were never honored and 181 years later Māori suffer a plethora of social issues brought about by the loss of land, language and identity and accumulated trauma. This has led to preventable chronic diseases including, so called "lifestyle" diseases such as diabetes and addictions including alcohol, illicit drugs, tobacco and gambling. The latter has affected a generation of young Māori who grew up with commercialized gambling among their *whānau*, *hapū*, *iwi* and urban

Māori communities (Herd, 2018). My claim relates to all of the articles and the inaction of the Crown to adequately protect our future generations from the harms of problem gambling.

Waitangi Tribunal

The Waitangi Tribunal is a permanent commission of inquiry and its role is to hear the grievances brought by Māori against the Crown - the co-signatory to the Treaty of Waitangi in 1840. The Tribunal was set up in 1975 following the historic *hiko*i - Māori Land March - in 1974. Led by the iconic matriarch Dame Whina Cooper, a few hundred people marched on foot from Te Hāpua at the northernmost tip of the North Island, and by the time they reached Parliament buildings in Wellington they were joined by thousands more. The *hiko*i leaders delivered a petition with the catch cry "not one more acre of land" to halt the continual sale of Māori land.

When the Waitangi Tribunal was initially formed there was no cap set on claims. It was not until the mid-1980s that the New Zealand government attempted to limit the total of the claims to one billion dollars. This was called the fiscal cap or envelope. The government's Māori members of parliament were tasked with introducing this cap to tribal claimants. Without exception the fiscal cap was met with disdain. While many *Iwi* welcomed the politicians with *haka* (made famous by our iconic rugby team the All Blacks), my *iwi* kinspeople *Te Ātiawa* recreated the welcome given to constabulary at Parihaka on November 5, 1881 (New Zealand History). On that fateful day in 1881, one thousand people from numerous tribal regions assembled in the courtyard awaiting the troops in the early hours of the morning. Their chiefs stood on a podium and warned them not to resist the constabulary³ (Scott, 1995). The contemporary demonstration of non-violent protest featured over one hundred young people who sat in silence on the ground with blankets draped over their shoulders and wearing a *raukura* (plume) of white albatross feathers in their hair. Sir Wira Gardiner, Minister of Māori Affairs at the time, who was part of the Fiscal envelope delegation at the time, referred to the protest action as "unnerving" (Douglas, 1996). The proposed Fiscal envelope was eventually abandoned.

The Tribunal has settled many historical claims across the country with *Iwi* and has now turned its attention to the 2000 contemporary claims lodged by groups and individuals. The National Government had set a cut-off date for historic claims up until September 1, 2008. This date was significant for the public health workforce as we had also chosen this date for a national Gamble Free Day.

³Constabulary were settler-soldiers, who took part in suppressing the rebellion of natives under the Rebellion Act (1881)

Māori and Gambling

Dice and card games were introduced to Māori by early whalers and traders. Gambling, defined as wagering or betting goods on the outcome of an event or game, was unknown among Māori prior to European arrival (Grant, 1994). *Ngā mahi- a-rēhia* referred to games and pastimes enjoyed by adults and children alike (Best, 1925). Since there was no form of gambling among Māori, there was also no name for gambling. *Tupono* is the closest word in our language that approximates risk taking but does not refer in itself to a game of chance. Gambling modes have expanded considerably since this time. *Housie* (Bingo), Lottery, Horse racing and Poker and other card games were and still are a popular pastime for many New Zealanders (Grant, 1994). The word used to describe gambling today is derived from the Māori language transliteration of betting – *petipeti*.

During my doctoral research I discovered a gaming story of my people of Te Ātiawa (Niwa, n.d.). This tribal narrative was carved in the gateway entrance to *Owae marae* (community gathering complex) and refers to a *teka*, a magical dart or gaming device that was known to have caused discord among the young men of a small community during an inter-tribal gaming contest. Although it was set almost 400 years in the past, the themes of this tribal historical narrative closely mirrored the findings of my doctoral study into modern Māori youths' perspectives on gambling among *whānau*, *hapū*, *iwi* and urban Māori communities.

In the early 1980s electronic gaming machines were introduced into New Zealand pubs and clubs from Australia. These so named "fruit machines" or "pokies" were imported by pubs and clubs and were largely unregulated until the Casino Control Act (1990). The Gambling Act (2003) integrates the Casino Control Act (1990) and the Gaming and Lotteries Act (1977) into a single act (Department of Internal Affairs, 2020).

The section of the Act called "Harm prevention and minimization regulations" was amended in March 2015 to tighten up the control of non-casino gaming machines in pubs and clubs. This was 12 years after the Gambling Act was passed into law and resulted in research that found this form of gambling to be extremely harmful for New Zealanders in general but for Māori almost double that of the general population (Dyall, 2003). Gambling research is currently funded by the Ministry of Health and informs the government's policy and planning in regards to the gambling legislation. Much of the research prior to 2003 was commissioned by the Department of Internal Affairs who still has responsibility for implementing the law in regards to compliance and licensing of gambling venues and casinos and managing the levy that the casino and community trusts pay each year.

The question of Indigenous gambling rights is far from settled in New Zealand. The Crown does not recognize Māori tribal groups' claims to sovereignty in the same way as that Native American Nations do under

the Indian Gaming Regulation Act (1988). Under *Te Tiriti o Waitangi*, Māori *hapū* were deemed to have signed away *tino rangatiratanga* (self-determination or sovereignty). However, in 2008 Lorna Dyall stated that Māori should have Treaty rights to establish casinos in their territories. Dyall's stance was heavily criticized by the late anti-casino lobbyist Maureen Waaka, who prevented the establishment of a casino in her local town of Rotorua, which is ironically known as RotoVegas, a popular holiday destination with a number of small gaming venues.

Auckland City's casino bid was contested by Ngāti Whātua, the *mana whenua* (local authority) of Tāmaki Makaurau (Original name of Auckland). The tribe lost out to Harrah's, a multi-national corporation. The Sky City Entertainment Group is now New Zealand owned and has floated public shares on the Stock Exchange. Under the Gambling Act (2003), *iwi* are unable to establish casinos independently from government. The WAI-1909 claim itself does not seek changes to the law in regard to Māori ownership of casinos as this will not turn back the clock in terms of the damage that has already been done. However, it will be a consideration when the time comes to present the evidence of the impact of commercial gambling industry on Māori families and youth (Levy, 2015).

Wahine Tūpono and Wahine Toa (Women who Stand in Truth and Warrior Women)

In 2001, I began work in the public health field as a gambling health-promoter on the Manukau Community Action Project for problem gambling. Manukau is situated in South Auckland, an area characterized by its low socio-economic status, and where a large percentage of the population is Māori and migrant peoples. The Gambling Helpline reported that a third of their callers were Māori women living in the Manukau area. There were very few services catering to this group at the time. While the women were not attending face-to-face counseling in great numbers, they were calling the 0800 number frequently as there was a Māori gambling helpline that employed several Māori women counsellors. Following a meeting with the Māori gambling helpline, a *Kaupapa Māori* programme was developed in collaboration with Māori women researchers, counselors and health promoters working in the problem gambling sector. The programme was named *Wahine Tūpono* (women who stand in truth). My role at the time was to incorporate health promotion messages and cultural interventions alongside a practicing addictions counselor. As a fledgling researcher, I had engaged with *Kaupapa Māori* Research theory through my university studies and also with *Mana Wahine* theory but had not seen the work of Indigenous Australian scholar Aileen Moreton-Robinson who explains her engagement with feminist standpoint theory in the following way:

We [indigenous women] are involved in a constant battle to authorize Indigenous knowledges and methodologies as legitimate and valued components of research. Furthermore, Indigenous scholars have engaged in and developed decolonizing strategies, but do not explicitly engage with or deploy feminist standpoint theory. (Moreton-Robinson, 2004, pp. 331- 332)

My doctoral research positioned three Māori women gambling researchers as *wahine toa* (warrior women). The protectors' role on the marae is usually reserved for men but in the years since the Waitangi Tribunal has been in operation, many Māori women have taken the lead in the claims processes. Māori women have also taken an active role in leading and development of problem gambling services around the country and are also taking the lead in their communities with regard to reducing gambling-related harm through the use of localized health promotion messages. There have been conflicts between these localized approaches and the national health promotion campaigns designed by non-Māori. These Māori women have prevailed by refusing promotional materials that did not meet their requirements and continuing to design and deliver their own unique messages to their communities in ways that the communities are able to understand.

We as Māori women are critically aware of our power as a collective and actively engage in strategies to support other Māori women working in the field in order to effectively help our people (many of them women) experiencing gambling-related harm. I was inspired by the two doctoral candidates who worked alongside us and I later completed my own study on the educational experiences of women who contributed to the development of the programme (Herd, 2005) and published an article on *mana wahine* and *tinu rangatiratanga* (Herd, 2006). I interviewed some of the developers of the *Kaupapa Māori* programme and several participants of the group and analysed the data utilizing a *Mana Wahine* (women's influence) discourse framework developed by Linda Tuhiwai Smith (1992). The framework engages with four key sites of struggle for Māori women, namely *wairua* (spirituality), *whānau* (extended family), the state (including schools and the church), and also Māori vs. white women's discourses. Māori women academics have developed *Mana Wahine* theory as a kaupapa Māori form of feminism (Pihama, 2001 as cited in Stewart, 2021).

The research found that a few of the women participants and the programme developers did not finish high school and left school without any qualifications. Some also left school due to adverse family circumstances including the death of their mothers. Some had dysfunctional relationships with their mother and left home while still very young. Most were now mothers themselves and spoke about breaking the intergenerational cycles of family violence

and how they struggled to overcome addictions of various kinds. Most of them did not recognize gambling as an addiction and instead referred to it as their "time out" from stressful family situations and overwhelming responsibilities. All of these situations are risk factors for gambling and documented by researchers in numerous gambling research reports (Dyall, 2003, 2004, 2005, 2009; Herd & Richards, 2004; Morrison, 2008, 2011, 2013a, 2013b).

The *Wahine Tūpono* programme ran for over four years from a community house in Otara, working with locals who were keen to see gaming venues banned from the Otara Town Center. They formed a community action group with this goal in mind and started a petition. The outcome of this petition and community action work was that the Manukau City Council approved a 'sinking lid' policy whereby if a gaming venue closed, the machines could not be relocated to another venue in the same area. A formative evaluation of the project was conducted (Williams & Moewaka-Barnes, 2002) and the action group and support group were seen as a great success by the local community.

Tirohanga Taiohi – Māori Youth Perspectives on Gambling

As a Māori research fellow for the Youth2000 project of the Adolescent Health Research Group at the University of Auckland, I focused on adolescent and young people's health and wellbeing in regard to gambling. I was involved in the pilot testing of an existing questionnaire with young people (Rossen, 2008). The findings for youth gambling were inconclusive, perhaps because there were more pressing issues for young people at that time and because participants were not questioned about the extent of close family members' gambling. I decided a few years later to focus my research on young urban Māori perspectives of gambling among *whānau*, *hapū*, *iwi* and urban Māori communities.

Recruitment was done through local community groups and through Māori media networks. I had great support from my community networks, friends and family, one of whom became my research assistant. Between us, we managed to recruit 22 young people between the ages of 16 to 24 years old, who took part in small focus groups. In each group, the young people were known to one another and were either friends, work colleagues or members of a family group. The cohorts were drawn from a range of backgrounds and included some who were students at university and at school, or employed. All identified as Māori and most had grown up outside of Auckland. Two participants identified as *mana whenua* (local tribal authority). Interviews took place in homes, schools, community service providers' premises or *marae* (community gathering place).

It took me over eighteen months to complete the interviews with the youth participants. After each focus group, I wrote reflections in my journal as each set of

interviews would trigger some memories of my own adolescence when I accompanied my mother to Housie (Bingo) two or three nights during the week and often on the weekends as well. I wrote about my experiences in the preface of the thesis. Three major themes were identified in the study and named using participants' quotes:

- 1) Gambling: It's a fact of life;
- 2) We are our own worst enemy; and
- 3) Young people just want support.

Each theme had three sub- themes that related to the main theme. The first theme spoke about the normalization of gambling amongst families and within communities. Some spoke about the fundraising activities that enabled them to take part in outdoor adventure activities, sports trips or *kapahaka* (traditional performing arts). *Taiohi* also spoke about casual betting on sports games, attending events where gambling was taking place and going out to socialize with friends only to find themselves in a gaming venue.

The second theme "We are our own worst enemy" was based on the views of *taiohi* who worked in gaming venues or who witnessed other family members or colleagues who were gambling excessively. They reported that often family members appeared to be spending a long time in the venue and would only leave when they had exhausted all cash or credit facilities. The third theme was about young people who were engaged in alternative activities, and talked about teachers or sports coaches, leaders and/ or mentors in their community who made a huge difference in their lives.

In an interview with Darrel Maniowabi (featured in this special issue) Sheila Wahsqonaikezhik spoke about her observations of First Nations young people she worked with in remote communities who understand gambling in the wider context of their everyday lives (Maniowabi & Wahsqonaikezhik, 2021). My findings were similar. The *taiohi* who spoke with me did not necessarily view gambling as a problem that needed fixing. My research revealed that *taiohi* are resilient and adapt quickly when faced with problem gambling among their *whānau* members, seeking help they need from teachers, guidance counselors and coaches from their community or at school (Herd, 2018). I translated my results into a generic model called TEKA. This is an acronym of the name of the magic dart used in the *Pakiwaitara* (historical narrative) by the protagonist in search of his identity, a sense of belonging and a home.

Conclusion

A key question was asked at the beginning of this article: How will the treaty claim improve the health outcomes of a generation of young Māori who have been exposed to commercial gambling's aggressive and targeted expansion and marketing? When I started

on my research journey, I had read initial articles by Lorna Dyal (2004, 2005, 2009) who described legalized gambling as a social hazard for Māori and a poisonous chalice for Indigenous peoples globally, and later on we co-authored a paper on housework as a metaphor for public health action (Dyal et al., 2012) due to the Crown's inability to clean up the mess it has made with commercial gambling.

Sadly, I do not believe the claim by itself will improve health outcomes for those *taiohi* impacted by problem gambling now or in the near future, because the government is dependent on revenue from gambling and will continue to allow commercialized gambling in New Zealand. This is unlucky for those *whānau, hapū and Iwi* members and the urban Māori communities who are undoubtedly footing the bill for this dependence. My doctoral research findings were hopeful that *taiohi* were resourceful and able to seek support within their communities for gambling-related harm.

Research findings by Abbott et al. (2018) has shown there has not been a decrease in the prevalence of Māori problem gambling in over 25 years. The onus therefore, remains with the New Zealand government as the representative of the Crown, to consider the unequal burden of gambling-related harm that is placed upon its citizens of Māori descent and seek ways to address this issue in partnership with their Treaty partners. The New Zealand government has paid out over a billion dollars in compensation to the Waitangi Tribunal claimants since it began 45 years ago. Many *Iwi* have invested their settlement funds well and are increasing their self-determination by providing social services, housing and education programmes to support their people. Raising awareness of problem gambling as an issue before the Waitangi Tribunal will also highlight the various harms of gambling that has impacted our people through generations and as a problem that the *Iwi* are now building capacity to address through social investment in their descendants. A few of the current *Iwi* and urban Māori service providers are delivering gambling harm-reduction programmes.

WAI-1909 will get a hearing eventually. I may not be happy with the outcome but I am looking forward to exercising my rights as an equal citizen of New Zealand under Article Three of *Te Tiriti O Waitangi*.

Glossary⁴

Aotearoa	Māori name for New Zealand
Haka	A form of dance used by men prior to battle (or sports games)
Hapū	Extended family grouping
He ao	A cloud
Hiko	Walk, march in protest
Iwi	Nation, descendants of an eponymous ancestor
Kaupapa	Topic, agenda, purpose
Mana	Influence, personal prestige and dignity
mana whenua	Local people with authority over a district
mana wahine	Prestige, dignity of women
Ngā Mahi a Rēhia	Games and pastimes
Noa	Ordinary
Pakiwaitara	Historical narrative
Pepeha	Personal introduction using landmarks as reference
Petipeti	Betting (transliteration)
Pokies	Electronic gaming machines
Rāhui	Restriction, ban
Raukura	Hair adornment made from feathers
Te Tiriti o Waitangi	The Treaty of Waitangi (1840)
Taiohi	Youth, young person, adolescent
Tangata whenua	The indigenous people
Tapu	A set of laws that protect people from danger
Teka	A dart used for gaming and in ceremonial rituals
Tikanga	Rules, regulations
Tino Rangatiranga	Self determination
Te moana nui a Kiwa	The vast ocean of Kiwa (an early explorer).
Tohunga	Knowledge keeper, medicinal healer, navigator
Tūpono	Chance or risk taking
Wahine	Woman
Wahine toa	Warrior woman
Wahine Tūpono	Women who stand in truth
WAI-1909	The 'Pokies' claim
Whānau	Family group
Niu Tireni	New Zealand (transliteration)

⁴ Māori words have been italicised in the text. Names are in plain text.

References

- Abbott, M., Bellringer, M., & Garrett, N. (2018). *New Zealand National Gambling Study: Wave 4* (2015). Report number 6. Auckland: Auckland University of Technology, Gambling and Addictions Research Centre.
- Aotearoa, from An Encyclopaedia of New Zealand, edited by A. H. McLintock, originally published in 1966. *Te Ara - the Encyclopedia of New Zealand*. <http://www.TeAra.govt.nz/en/1966/aotearoa>
- Best, E. (1925). *Games and pastimes of the Māori*. A.R. Shearer, Wellington. New Zealand.
- Casino Control Act. (1990). New Zealand.
- Department of Internal Affairs. *Gambling Laws*. Wellington, New Zealand. <https://www.dia.govt.nz/Gambling-legislation-laws>. Retrieved 14 December 2020.
- Dyall, L., & Morrison, L. E. (2002). Māori, The Treaty of Waitangi and gambling. In Curtis B (Ed.), *Gambling in New Zealand*. Palmerston North, New Zealand: Dunmore Press.
- Dyall, L. (2003). *Kanohi ki te kanohi: A Māori face to gambling*. (Doctor of Philosophy Unpublished PhD thesis), University of Auckland, Auckland, New Zealand. <https://researchspace.auckland.ac.nz/handle/2292/3123>
- Dyall, L., & Herd, R. A. (2004). Māori. In John Raeburn & Ruth. A Herd (Eds.), *Te Ngira: A workplan*. Palmerston North, New Zealand: Problem Gambling Purchasing Agency.
- Dyall, L. (2004). *Community action and tino rangatiratanga: Can this be achieved in New Zealand?* Paper presented at the Child Poverty Action Group, Wellington, New Zealand.
- Dyall, L. (2005). Gambling: A social hazard. *Social Policy Journal of New Zealand/Te Puna Whakaaro*, 21, 22-40.
- Dyall, L. (2007). Gambling, social disorganisation and deprivation. *International Journal of Mental Health and Addiction*, 5(4), 320-330. <https://doi.org/10.1007/s11469-007-9085-5>
- Dyall, L. (2009). Gambling: A poisonous chalice for indigenous peoples. *International Journal of Mental Health and Addictions*, 8, 205-213. <https://doi.org/10.1007/s11469-009-9212-6>
- Dyall, L., Hawke, Z., Herd, R. A., & Nahi, P. (2012). Housework metaphor for gambling public health action: An Indigenous perspective. *International journal of mental health and addiction*, 10(5), 737-747. <https://doi.org/10.1007/s11469-011-9370-1>
- Dyall, L., Thomas, Y., & Thomas, D. (2009). *The impact of gambling on Māori*. Paper presented at the Nga Pae o Te Maramatanga., Auckland, New Zealand.
- Durie, M. (2001). *Mauri Ora: The dynamics of Māori health*. Oxford University Press, Dunedin, New Zealand.
- Douglas, T. K. (1996). Return to sender: What really happened at the Fiscal Envelope Hui? Wira Gardiner. *He Pukenga Korero*. Kōanga (Spring) 2(1).
- Gambling Act*. (2003). New Zealand.
- Gambling (Harm Prevention and Minimisation) Regulations. (2004). New Zealand. <http://www.legislation.govt.nz/regulation/public/2004/0276/latest/DLM283934.html> retrieved 4 Dec, 2020.
- Grant, D. (1994). *A history of gambling and lotteries in New Zealand*. Victoria University Press, Wellington. New Zealand.
- Herd, R. A., & Richards, D. (2004). Wahine tupono: A kaupapa Maori intervention programme. *Problem gambling: New Zealand perspectives on treatment*. In Tan, R. & Wurtzburg, S (Eds.). Christchurch, New Zealand: Steele Roberts in association with Pacific Education Resources Trust. 172-181.
- Herd, R. A. (2005). *Wahine Tupono: A kaupapa Māori intervention programme*. (Master of Education), University of Auckland, Auckland, New Zealand.
- Herd, R. A. (2006). Mana wahine me te tino rangatiratanga: Māori women's dignity and self determination. *Te Komako, Hotoke*, 14-21. <https://anzasw.nz/wp-content/uploads/Te-Komako-Winter-2006-Articles-Herd.pdf>
- Herd, R. A. (2008). *Claim to the Waitangi Tribunal Māori problem gambling*.
- Herd, R. A. (2018). *Tirohanga Taiohi: Taiohi perspectives on gambling among whānau, hapū, iwi and urban Māori communities*. (DHSc Unpublished doctoral thesis), AUT University, Auckland, New Zealand. <http://hdl.handle.net/10292/11675>
- Indian Gaming Regulatory Act* (1988). Statute. <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg2467.pdf>
- Levy, M. (2015). *The impacts of gambling for Māori families and communities: A strength-based approach to achieving Whānau Ora*. Pou Tuia Rangahau, Te Rūnanga o Kirikiriroa. Hamilton.
- Manitowabi, D., & Wahsquaonezhik, S. (2021). "This is not about gambling, it's about our lives": An Interview with Sheila Wahsquaonezhik. *Critical Gambling Studies* 2, 159-165.
- Ministry of Health. (2002). *He korowai oranga - Maori health strategy*. Wellington, New Zealand: Ministry of Health.
- Moreton-Robinson, A. (2013). Towards an Australian Indigenous women's standpoint theory: A methodological tool. *Australian Feminist Studies*, 28(78), 331-347. <https://doi.org/10.1080/08164649.2013.876664>
- Morrison, L.E. (2008). *Maori women and gambling: Every day is a war day!* (Master of Psychology), University of Waikato, Hamilton, New Zealand. <https://researchcommons.waikato.ac.nz/bitstream/handle/10289/2537/thesis.pdf>
- Morrison, L.E. (2011). Māori women and gambling: A social issue for Māori communities and Whānau Ora. In T Macintosh & M Mulholland (Eds.), *Māori and Social Issues* (Vol. Special issue 12). Wellington, New Zealand: Huia Publishers. 187-207.
- Morrison, L.E., Lyndon-Tonga, L., & Bolton, A. (2013a). Reversing the harmful effects of gambling in Indigenous families: The development of the Tu Toa Tu Maia intervention. *Pimastiwini: A Journal of Aboriginal and Indigenous Community Health*, 11(2), 255-268.
- Morrison, L.E., & Wilson, D.L. (2013b). Ngā Pou Wahine: A framework of empowerment for Māori women and gambling misuse. *MAI Journal*, 2(2), 91-104.
- New Zealand History. *Orakau*. retrieved 16 December 2020. <https://nzhistory.govt.nz/keyword/orakau>
- Niwa, J. No date. Pamphlet on the story of the gateway at Owae- Whai Tara marae.
- Rossen, F. (2008). Adolescent gambling in New Zealand: An exploration of protective and risk factors. Thesis (PhD, Behavioural Science) University of Auckland.
- Scott, D. (1995). *Ask That Mountain: The Story of Parihaka*. Penguin Books Ltd. New Zealand.
- Smith, L, T. (2019). Māori Women: Discourses, Projects and Mana Wahine. (Eds) Pihama, L. Smith, L.T., Simmonds, N. Seed-Pihama, J. and Gabel, K. *Mana Wahine Reader: a collection of writings 1987-1998 Volume I*. Te Kotahi Research Institute Hamilton, Aotearoa/ New Zealand. 39-52. <http://www.puketeraki.nz/site/puketeraki/Mana%20Wahine%20Volume%201.pdf>
- Stewart, G. T. (2021). Academic-Māori-Woman: The impossible may take a little longer. *Educational Philosophy and Theory*. 1-6. <https://www.tandfonline.com/doi/full/10.1080/00131857.2021.1892484>
- Sykes, A. (2020). Personal communication <https://www.facebook.com/asykes61/posts/10224070556808830>
- Suter, B. (2014). The Contra Proferentem rule in the reports of the Waitangi Tribunal. *The Waitangi Tribunal and New Zealand Legal History*. LLM Research paper. Laws 547. Faculty of Law, University of Victoria. New Zealand. <https://core.ac.uk/download/pdf/41339669.pdf>
- Treaty of Waitangi Act*. (1975). New Zealand.

- Waitangi Tribunal. (2015). Memorandum of the Chairperson regarding the Kaupapa Inquiry Programme. 1 April 2015. <https://waitangitribunal.govt.nz/assets/Documents/Publications/WT-Kaupapa-Inquiry-Programme-Direction.pdf>
- Waitangi Tribunal. (2020). Meaning of the Treaty: A Treaty of two texts. Retrieved 16 December, 2020. <https://waitangitribunal.govt.nz/treaty-of-waitangi/meaning-of-the-treaty/>
- Williams, L. and Moewaka-Barnes, H. (2002). *Evaluation of the Manukau Community Action Project for Problem Gambling*. Auckland, New Zealand. Massey University: Te Ropu Whariki.

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Tribal Casino Labor Relations and Settler Colonialism

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Abstract: Sovereignty provides the legal basis for tribal casinos in the United States. However, since the industry's rapid growth (valued at \$34 billion for 2019), courts are now revisiting decades-old precedents in federal Indian law to reinterpret policies in ways that add new constraints to tribal sovereignty. Because tribal casinos often employ large numbers of non-Native Americans, tribal casino labor relations have become a new arena for contests over the boundaries of tribal sovereignty. This article investigates recent tribal casino labor relations court rulings (e.g., Little River, Soaring Eagle, and Pauma) through the lens of settler colonialism in order to understand new revisions to legal precedents. It argues that settler colonialism continues to underlie federal policies and that the growth of tribal casinos reveal that the federal government may intervene to undercut tribal sovereignty.

Keywords: labor relations, tribal sovereignty

Introduction

In 2007, the United States D.C. Circuit Court of Appeals decided *San Manuel v NLRB*, (341 NLRB 1055), overturning a longstanding legal precedent on the right of tribal governments to govern labor relations with their employees. More than a decade later, tribal governments continue working to mitigate the fallout of *San Manuel*, including efforts to advance a bill through the United States Congress to undo *San Manuel*. Why do many tribal governments consider overturning *San Manuel* to be central to preserving their sovereignty? The answer lies in the successes of the tribal casino industry (now valued at over \$30 billion) and concerns that these successes motivated the federal government to renew its pursuit of settler colonialism, the displacement of Indigenous peoples from their land (Wolfe, 1999). This article examines the fallout from *San Manuel* to show that a seemingly niche issue—laws governing tribal casino labor relations—is fundamentally tied to longstanding fights for both tribal sovereignty and organized labor. Through this investigation, one can see how features of the United States' political system, including the structure of federal courts and partisanship in the United States Congress, make it possible for settler colonialism to be advanced even by those who explicitly reject it.

From the modest beginnings of tribal gaming in the late 1970s, United States federal and state

government responses have ranged from outright resistance to conditional acceptance. Even at its most supportive of tribal gaming, federal and state policies demand concessions from tribal governments. Cattelino (2010, p. 235) identified tribal casinos as caught in a double bind, where "American Indian tribal nations (like other polities) require economic resources to exercise sovereignty, and their revenues often derives from their governmental rights; however, once they exercise economic power, the legitimacy of tribal sovereignty and citizenship is challenged". As a settler society built on Indigenous land, the United States' tenuous recognition of tribal sovereignty was achieved only as result of centuries of Native activists working to secure their rights. Gordon (2018) demonstrates how their experiences of colonization gave Native activists the knowledge necessary to effectively challenge colonial policies and substantially revitalize their sovereignty, most visibly through the tribal casino movement. If settler colonialism shapes federal policies, then one would expect the spaces where tribes make the greatest gains would become the sites where the federal government pushes back the strongest. Kamper (2010) argues this is exactly what federal courts did in *San Manuel*. He provides a thoughtful analysis of the *San Manuel* decisions wherein federal courts cited the successes of tribal gaming as rationale for reversing a decades-old legal precedent that had acknowledged

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tribal governments' sovereignty over labor relations with their employees. Because the most financially successful tribal casinos rely on labor forces that are majority non-Native, they create a novel work environment, where non-Native employees commute to Indian reservations to serve tribal government enterprises. In his groundbreaking book, *The Work of Sovereignty* (2010), David Kamper argues that court decisions governing tribal labor relations can provide a barometer for determining when the federal government signals that it will push back against the achievements of tribal governments. He asked readers to "stay tuned" to whether other courts continued to uphold this revision or if the United States Congress would intervene (2010, p. 67).

Since the *San Manuel* decisions, we now have a much clearer view of where courts and policymakers are headed. This article examines three court cases (*NLRB v Soaring Eagle* [2015], *NLRB v Little River* [2015], and *Pauma v NLRB* [2018]) and the failed Tribal Labor Sovereignty Act (TLSA) to demonstrate how tribal casino labor relations remain an arena in which tribal governments and the United States continue to grapple over the boundaries of tribal sovereignty. In effect, these developments represent a continuation of settler colonialism. However, an examination of the courts' opinions and congressional testimony on the TLSA reveal that many of the judges and policymakers who curtailed tribal efforts to overturn *San Manuel* do not publicly support the settler colonial agenda of displacing tribal sovereignty. Instead the structure of appeals court panels and high levels of congressional partisanship, combined to undercut tribal governments' attempts to mitigate *San Manuel*.

Tribal Corporations and Labor Relations

To understand the significance of the *San Manuel* court decisions and why tribal governments perceive them as a threat to sovereignty, one must first understand the broader context of tribal corporations and labor relations. In 1934, Congress passed the Indian Reorganization Act (IRA), which created a system by which the federal government would recognize tribal governments, but only if tribes adopted constitutions with key provisions written by the federal government. While the IRA limited the political structures that tribal governments could adopt, it broadly recognized tribal governments' right to own property of all types. Section 17 of the IRA provides that, "[a tribal government] charter may convey to the incorporated tribe the power to purchase...or otherwise own...property of every description...and such further powers as may be incidental to the conduct of corporate business". With the IRA, the federal government recognized that Native nations can hold any kind of property, including corporations. Congress's intention was clear, to recognize that property ownership is a key part of sovereignty and is necessary for Native nations to provide for their communities. Policymakers may not

have envisioned that one day tribes would operate casinos, but Section 17 made possible the tribal ownership of any kind of corporation, setting the stage for tribal casinos.

The following year Congress passed the National Labor Relations Act of 1938 (NLRA), which established regulations for labor relations in the private sector. It created the National Labor Relations Board (NLRB) to adjudicate decisions in applying the NLRA. Section 2(2) of the NLRA states that the employers it applies to "...shall not include the United States or any wholly owned Government corporation...or any State or political subdivision thereof...". The federal and state governments have their own labor relations policies and the NLRA does not apply to them. The text of the NLRA does not specifically mention tribal governments, so are they exempted like federal and state governments? In a 1960 ruling (*Federal Power Commission v. Tuscarora Indian Nation*, 1960), the United States Supreme Court decided that in cases where a law does not specifically mention tribal governments, it can only be applied if Congress intended the law to apply to all Americans and if it does not interfere with tribal sovereignty. Based on the *Tuscarora* decision, in 1976 the NLRB ruled that the NLRA does not apply to tribal governments. In this case (*Fort Apache Timber Co.* 226 NLRB 503) the White Mountain Apache Tribe owned a timber company that operated entirely on tribal land. The NLRB ruled that the NLRA does not apply in such circumstances because the company is tribally owned, and Congress did not intend for the NLRA to interfere with tribal governments. For decades, it appeared to be clear: if a tribal government owns a corporation that operates on tribal land, then it is a government employer and the NLRA does not apply. However, the emergence of tribal casinos proved to be a turning point not just for tribal economic development but also for courts to revisit this precedent and to reconfigure the boundaries of tribal sovereignty.

Beginning in the late 1970s, tribal governments across the United States began experimenting with bingo and poker operations as a potential venue for raising much needed revenue. In each case, the operation was an expression of the tribe's sovereignty, with tribal governments passing the legislation and regulations necessary to support their citizens. A few, like the Seminole Tribe of Florida, faced legal challenges and won (*Seminole Tribe of Florida v Butterworth*, 1981). In 1980, The Cabazon Band of Mission Indians opened their poker club on their reservation in the desert of Southern California and faced nearly a decade of legal challenges before succeeding in the landmark Supreme Court case *Cabazon v California*. In brief, the Supreme Court acknowledged that Cabazon, as a federally recognized Native nation, has the jurisdiction to regulate any activity that is legalized and regulated by its surrounding state, California (see Gordon, 2018; Lane, 1995; and Rossum, 2011 for a more detailed background on the case). Because California had

previously legalized and regulated gambling, Cabazon could too. The *Cabazon* decision secured that tribal governments across the United States could choose to legalize and operate gambling establishments on their reservations.

Congress soon intervened with the Indian Gaming Regulatory Act of 1988 (IGRA), which demarcated gambling into three classes, each with its own levels of oversight. Under IGRA, Class 3 includes most lucrative forms of gaming, including games that are backed by the house, like slot machines and blackjack. IGRA mandates that if tribal governments want to pursue Class 3 gambling, they must first negotiate a compact—a legally binding agreement—with the surrounding state that grants the state regulatory oversight. The terms of compacts vary widely from state to state. In California’s tribal gaming compacts, the state required tribal governments to pass Tribal Labor Relations Ordinances (TLROs), to regulate labor relations with tribal employees, including tribal casino employees. Under California’s compacts, these TLROs must include certain features similar to the NLRA, like the ability for employees to use cards checks to demonstrate interest in organizing a union. But there are also key differences between California’s TLRO’s and the NLRA (Kamper, 2010, p. 80). The case that led the NLRB to overturn the *Fort Apache Timber Co.* precedent began when one California Native nation, the San Manuel Band of Mission Indians, followed every aspect of the TLRO mandated by its compact. But San Manuel ran askew of the NLRA, which given the established legal precedent, they did not believe applied to their casino.

The San Manuel Decision

Located near San Bernardino, California, The San Manuel Band of Mission Indians welcomed its employees to form unions and pursue collective bargaining. When the Communications Workers of America (CWA) began organizing San Manuel’s employees, the tribe granted the union access for organizing. At the same time, another union, Hotel and Restaurant Employees (HERE) also sought to organize San Manuel’s employees. Prior to its attempt to organize San Manuel employees, HERE had a complicated relationship with tribal governments located in California. When tribes first attempted to negotiate compacts with California, the state resisted negotiating in good faith. Tribes then collected enough signatures to successfully petition for tribal gaming compacts to become subject to a ballot measure. HERE opposed the ballot measure and was one of the biggest sponsors against it in what became the most expensive referendum campaign in United States history (Gordon, 2000). As one of the largest unions of Las Vegas employees, HERE had a financial interest in preventing the expansion of gambling to California. After its unsuccessful attempt to block tribal gaming compacts in California, HERE then sought to organize California’s tribal casino employees. While San Manuel had

welcomed CWA, the tribe had a different approach to HERE. San Manuel’s TLRO did not prohibit management from giving preferential treatment to one union over another. The NLRA does prohibit preferential treatment. Because of the precedent set in *Fort Apache Timber Co.*, San Manuel did not believe the NLRA applied to their casino employees. HERE believed it did and filed a complaint with the NLRB, asserting that under the NLRA San Manuel had engaged in an unfair labor practice.

San Manuel attempted to dismiss the case, asserting that the NLRB did not have jurisdiction because under its own precedent, the NLRA did not apply. In its 2004 decision (341 NLRB 1055), the NLRB overturned the precedent set in *Fort Apache Timber Co.* The majority opinion decided that Congress did in fact intend for the NLRA to apply to corporations owned by tribes. Most concerning to tribal governments was that the NLRB developed a new standard for determining when it has jurisdiction over tribal enterprises. According to this new standard, the NLRB has less interest in effectuating the policies of the (NLRA) when tribal governments are pursuing “traditionally tribal or governmental functions” (p. 8) and more interest in tribal commercial activities. In this case, the Board found that “the tribe’s operation of the casino is not an exercise of self-governance...Apart from its ownership and location, the casino is a typical commercial enterprise operating in, and substantially affecting, interstate commerce” (p. 9). Because of this new standard, the NLRB’s ruling has implications well beyond tribal casino labor relations. It reframed tribal sovereignty as confined only to what the NLRB deems as “intramural” or internal activities that only affect tribal members. In other words, the new standard established that the moment a tribal government is engaging in an activity that affects non-members, it forfeits its sovereignty on that activity, creating the type of double bind identified by Cattellino (2010).

San Manuel appealed to the D.C. Circuit Court, which sided with the NLRB’s decision (*San Manuel v NLRB*, 2007). In its ruling, the appeals court declared that the NLRA should apply because “The total impact on tribal sovereignty at issue here amounts to some unpredictable, but probably modest, effect on tribal revenue and the displacement of legislative and executive authority that is secondary to a commercial undertaking” (p. 8). The D.C. Circuit Court’s ruling created the possibility that San Manuel’s case could undermine tribal sovereignty in spheres well beyond tribal casino labor relations. Specifically, the D.C. circuit asserted that constraints could apply to San Manuel and other tribes because, “First the operation of a casino is not a traditional attribute of self-government” and “Second, the vast majority of the Casino’s employees and customers are not members of the Tribe...” (p. 8). Thus, tribal sovereignty does not extend to any tribal pursuits that are not what the court perceives as a traditional activity of a government or that impact individuals who are not members of that government.

Kamper's (2010, p. 83) analysis of the *San Manuel* case astutely argues that the court's application of "traditional" is arbitrary and that federal and state governments routinely engage in activities that blur the line between government and commercial. The most obvious example is that many state governments directly operate gambling facilities. Likewise, all state governments engage in activities that impact the citizens of other states. In reflecting on the court's decision, gaming law professor Nelson Rose wrote that, "Tribes had near absolute sovereignty as long as they were living in poverty, isolated from the rest of American society. No one cared until they gained economic and political power. Now it might all be taken away" (Rose, 2006, p. 60). The *San Manuel* decision created a double bind where courts may recognize tribal governments to enact their own "intramural" sovereignty, but limit their sovereignty the moment the tribal government engages in the wider economy, even though all governments need to engage with the broader economy to sustain themselves. While the *San Manuel* decisions set a new precedent, it was not immediately clear if other courts would follow the lead of the DC circuit. Now, recent decisions show exactly where courts are headed and illustrate the challenges tribal governments face in reversing the impacts of *San Manuel*.

Little River, Soaring Eagle, and Pauma

San Manuel never appealed the D.C. Circuit Court's decision, so the case never went to the Supreme Court and other circuit courts were not bound by D.C.'s decision. To measure *San Manuel's* impact, one must look to whether other circuit courts would choose to apply it. The first test came in 2015 when two Michigan-based tribal casino labor relations cases came before the 6th Circuit Court of Appeals. The 6th Circuit Court heard both *NLRB v Little River* (2015) and *NLRB v Soaring Eagle* (2015) concurrently and issued rulings within 3 weeks of each other. Between the two cases, all six judges on the 6th Circuit weighed in on the cases, with each case being assigned a panel of three judges. Of the court's six judges, four argued that the NLRA should not apply to tribal government enterprises, like casinos. However, despite four of six judges opposing the NLRB's jurisdiction, the court ruled against the tribes in both cases. Examining how the court ended up ruling against a position that the majority supported reveals that settler colonialism played a role but was not the predominant factor in the 6th Circuit Court's application of *San Manuel*.

In the first case, The Little River Band of Ottawa Indians passed a Fair Employment Practices Code (equivalent to a TLRO) that included regulations on labor-organizing activities. Following the *San Manuel* decisions, the NLRB ordered Little River to cease enforcing any of the aspects of its TLRO that conflict with the NLRA. The Little River Band appealed to the 6th Circuit, which asserted that, "a federal statute creating a

comprehensive regulatory scheme presumptively applies to Indian tribes" (p. 16). In other words, while the Supreme Court's 1960 *Tuscarora* decision declared that a federal law can only apply to tribal governments if Congress intended it to, because the Little River panel of the 6th Circuit Court saw the NLRA as a "comprehensive regulatory scheme" (p. 16), it presumed that Congress must have intended it to apply to tribal governments. In its 2-1 decision against Little River, the panel expanded *Tuscarora* to include all federal laws that could, presumably, be construed as applying to tribal governments, even if Congress never expressed that intent.

This decision advanced settler colonialism because it reinterpreted a longstanding legal precedent to diminish the sovereignty of tribal governments over their own territory. Like the *San Manuel* decisions, *Little River* reaches well beyond the realm of tribal casino labor relations. Previously under *Tuscarora*, if Congress did not specify that it intended a law to apply to tribal governments or to be generally applicable across the country, it did not apply to tribal governments. But *Little River* flipped this interpretation. Now, if Congress did not express intent on whether a law should apply to a tribal government, the court will presume that it does apply. *Little River* supplants federal law for tribal authority on a wider range of matters, well beyond tribal labor relations. However, what came next, with *Soaring Eagle*, exposed that most of the 6th Circuit Court opposed the new precedent but was now powerless to stop it.

The Soaring Eagle Casino and Resort is owned and operated by the Saginaw Chippewa Tribe of Michigan, which established a no-solicitation policy for employees that prevents them from soliciting and posting materials at work. In 2010, casino management terminated a housekeeper who, after several warnings, continued to promote union-organizing with coworkers. The fired employee filed an unfair labor practices complaint under the NLRA, which prohibits employers from retaliating against employees who discuss unionization. The NLRB applied the new precedent set by the *San Manuel* decisions and ruled in favor of the complainant. *Soaring Eagle* appealed to the 6th Circuit Court, which heard the case concurrently with the Little River Band case, though with a separate panel of three judges. In its decision, the *Soaring Eagle* panel argued that the NLRA should not apply because

- 1) the fact that the Casino is on trust land and is considered a unit of the Tribe's government;
- 2) the importance of the Casino to tribal governance and its ability to provide member services; and
- 3) the [complainant] (and other nonmembers) voluntarily entered into an employment relationship with the Tribe. (p. 26)

Notwithstanding its arguments against applying the NLRA, all three judges on the panel voted that it must apply because they were bound by the *Little River*

decision, which was decided only three weeks earlier. In concluding its opinion, the *Soaring Eagle* panel wrote, "For all of these reasons, if writing on a clean slate, we would conclude that... the Tribe has an inherent sovereign right to control the terms of employment with nonmember employees at the Casino, a purely tribal enterprise located on trust land" (p. 27). Because the *Soaring Eagle* decision specifically acknowledges the sovereignty of tribal governments over labor relations, it counters the settler colonial stance taken by *Little River*, despite being powerless to change it. Given that the 6th Circuit heard *Soaring Eagle* and *Little River* concurrently by separate panels, whichever panel concluded the case first would establish the court's precedent. If the timing or make-up of the panels were slightly different, the court could have ruled in favor of the tribes.

Both *Little River* and *Soaring Eagle* appealed to the Supreme Court. However, the Supreme Court declined to hear their cases, letting the 6th Circuit rulings stand. Since the 6th Circuit rulings, the impact of the *San Manuel* decisions continues to spread. In 2018, the 9th Circuit Court supported the NLRB's application of *San Manuel* to labor relations at the Pauma Casino (*Casino Pauma v NLRB*, 21-CA-125450). In 2019, the Supreme Court also declined to hear Pauma's appeal. It now appears that the shifting scope of federal constraints on tribal casino labor relations has settled. The new precedent now stands without any apparent avenue to be challenged through the courts. Tribal governments are now charting a new path through the United States Congress to protect their sovereignty over such matters. Many are now advocating for the Tribal Labor Sovereignty Act (TLSA), which would provide a simple amendment to the NLRA. But in passing Congress, the TLSA is facing partisan headwinds.

Tribal Labor Sovereignty Act

The cases outlined above all center on Section 2(2) of the NLRA's definition of employer, which exempts federal and state governments but does not mention tribal governments. First introduced in 2015, the TLSA would provide a short amendment to the NLRA to explicitly add an exemption for tribal governments. The TLSA, in its entirety, states that if signed into law, the act would amend "the National Labor Relations Act to provide that any Indian tribe or any enterprise or institution owned and operated by an Indian tribe and located on its lands is not considered an employer (thus excluding Indian tribes and such enterprises or institutions from coverage by the Act)" (p. 1). This would not prohibit unionization of tribal employees: it would give teeth to tribal governments' TRLOs, allowing tribal laws to govern labor relations with tribal employees on tribal land. Since 2015, policymakers have repeatedly brought the TLSA up for vote in Congress but so far it has failed to become law. An analysis of congressional testimony and policymakers' public comments on the TLSA sheds light on how federal Indian policies, which

typically do not fall along partisan lines, and labor law, which is often marked by a partisan split between Democratic and Republicans, have combined to make the TLSA into a partisan wedge issue, unlikely to succeed in the foreseeable future.

On March 29, 2017, the House of Representative's Subcommittee on Health, Employment, Labor, and Pensions held its first and only hearing on the TLSA. Featuring testimonies by representatives from the Navajo Nation, Viejas Band of Kumeyaay Indians, and the National Congress of American Indians, as well as UNITE HERE (the union formed by the merger of HERE and the Union of Needletrades, Industrial, and Textile Employees), the hearing quickly delved into the question of whether the TLSA would protect tribal sovereignty at the expense of worker's rights to organize. The hearing's opening statement came from the committee's ranking member Gregorio Sablan, a delegate representing the Northern Mariana Islands. Sablan declared,

I am a Chamorro, one of the indigenous people of the Marianas, and fully appreciate the importance of tribal sovereignty for Native Americans. I also believe deeply in worker's rights to organize...Federal labor law and tribal sovereignty can comfortably co-exist at tribal casinos without stripping workers of their rights under the *National Labor Relations Act*...Tribal labor ordinances can be a workable option only if (1) they provide protections substantially equivalent to those afforded by the *National Labor Relations Act*, and (2) the NLRA exists as a backstop. (Subcommittee on Health, Employment, Labor, and Pensions, 2017, pp. 6-7)

As one of only a handful of Indigenous representatives ever elected to Congress, it would not be appropriate to characterize Sablan's call for a balance between tribal sovereignty and workers' rights as intended to advance settler colonialism. The United States recognizes over 570 tribal government, which means that if each is free to develop its own policies for labor relations, there could be a wide diversity of frameworks, ranging from supportive to hostile toward labor unions. For example, later during the hearing, Sablan entered into the record Section 3107 of the 2010 Blackfeet's TLRO, the Tribal Employment Rights Ordinance and Safety Enforcement Act of 2010, which reads "Unions are prohibited in the Blackfeet Indian reservation" (p. 57). Under *San Manuel*, the NLRA nullifies ordinances like this, at least when a tribe is operating a "commercial" enterprise like a casino. The TLSA would allow TRLOs like the Blackfeet's to ban all union organizing. It is understandable why supporters of organized labor would perceive the TLSA as a threat.

However, many state governments provide no framework for public employee unions, and some, like Virginia (Prohibition Against Collective Bargaining,

2006), explicitly ban state employee unions. In his testimony, Viejas Band Chairman Robert Welch asserted that *San Manuel* created a double standard for tribal and state governments. Welch argued, “[Tribal governments] run just like federal, state, and local governments. The tribe should not be treated as...second class governments...” (Subcommittee on Health, Employment, Labor, and Pensions, 2017, p. 32). Cladoosby, president of the NCAI (the largest and oldest organization representing Native nations), echoed this point, reiterating that, “We just want to be treated as sovereigns, as other governments” (Hearing on H.R. 986, Tribal Labor Sovereignty Act, 2017, p. 42). Welch and Cladoosby were adamant that the TLSA is not about unionization, it is about sovereignty. If state governments can pass their own public sector labor relations laws, then why cannot tribal governments? While *San Manuel* found that that the NLRA should be applied to tribal casinos because gaming is not a “traditional” government activity, Cladoosby’s testimony countered this, pointing out that “[there are] mega lotteries run by states across the nation. We’re [tribal governments] not the only government that runs gaming” (Hearing on H.R. 986, Tribal Labor Sovereignty Act, 2017, p. 52). Likewise, where *San Manuel* cites the majority non-Native workforce as a reason for applying the NLRA, Cladoosby responded that, “...if you look at Las Vegas and Reno, where you have a lot of gaming, a lot of those employees come from outside of Las Vegas and Reno, and they can’t vote there either. We just want to be treated the same as other governments” (Hearing on H.R. 986, Tribal Labor Sovereignty Act 2017, pp. 56-57). Welch and Cladoosby’s testimonies highlight that tribal governments are not the only governments that operate gambling and tribal casinos are not the only casinos with employees who cannot vote in the jurisdiction where they work.

The hearing laid bare the conflict exposed by *San Manuel* and the fault lines undermining the passage of the TLSA. Advocates for the TLSA argue it would establish parity between tribal and state governments. Just like state governments, some tribal governments may embrace public sector unions while others reject them. Opponents of the TLSA, like Sablan, do not see themselves as targeting tribal sovereignty or advancing settler colonialism. They view the TLSA as diminishing workers’ ability to unionize. In assessing the continued impact of *San Manuel*, it is important to recognize the legitimate concerns of policymakers that value labor unions and worry the TLSA would undermine them. However, because support for labor unions often falls along partisan lines, the TLSA injected partisanship into the typically nonpartisan arena of federal Indian policies.

In January 2018, the TLSA passed the House of Representatives with bipartisan support in a 239-173 vote but in the Senate, it quickly became enmeshed in partisan politics. In April 2018, when TLSA first passed the Senate Committee of Indian Affairs, Senator Udall

(D-New Mexico), Vice Chair of the Committee, noted that, “Normally, our committee is very bipartisan...It was not so in this case today...I was not asked for input. Nothing about this bill was negotiated with me...It is shameful that this full body does not consider and resolve these and other important issues...And it is shameful that, when the Senate gives Indian Country its first shot in 10 years, Republicans closed the debate to prevent consideration of other pressing pieces of Indian Affairs legislation” (Udall, 2018, n.p.). Udall, who voted for the TLSA, voiced his frustration that the committee did not consider any other legislation, including bills that would have supported housing, education and healthcare on reservations. He accused his Republican colleagues of focusing only on the TLSA in order to make it a wedge issue, forcing Democrats to choose between supporting unions or tribes, without considering any other legislation that would support tribal sovereignty.

The day of the Senate vote, Senate Majority Leader Mitch McConnell framed his support in terms of tribal sovereignty when he tweeted, “This afternoon, the #Senate will vote to advance legislation from Senator @JerryMoran that would bolster the proper sovereignty of American Indian tribes in the face of excessive federal regulation” (McConnell, 2018). As Sen. Udall noted, if Republicans truly supported tribal sovereignty, they would have considered other bills in addition to the NLRA. On April 16, when the NLRA came to a full Senate vote on a procedural motion to advance the bill, seven Democrats and one Independent joined 47 Republicans in voting “aye”. With 55 votes, it failed to secure the 60 needed to advance (Schieber, 2018). The demise of the TLSA is not a direct result of policymakers intentionally pursuing a settler colonial agenda. Instead, it failed because partisan politics turned tribal government labor relations into a wedge issue.

What does the TLSA tell us about tribal labor as a new arena for sovereignty? Federal Indian policy might typically be bipartisan, but it can intersect with other, much more partisan spheres. Senator Udall accused his Republican colleagues of only feigning interest in tribal sovereignty to force a vote that could make it appear that they have turned against labor organizations. The demise of the TLSA demonstrates that one of the greatest challenges to passing legislation that supports tribal sovereignty is that such legislation, while often bipartisan, can become mobilized in partisan disputes. In her influential book, *Rich Indians: Native People and the Problem of Wealth in American History*, Harmon (2010, p. 279) illustrates how “...controversies about Indian wealth have been dignified at times by meaningful discourse on important moral issues. Issues have included...the measures of fair economic opportunity and reward”. While the achievements of tribal casinos are successes of tribal governments using the laws of the federal government to revitalize their sovereignty, they also draw attention to broader inequities in settler society, especially the unequal

balance between employers and employees. Tribal governments do not deserve disproportionate attention for having this unbalance—it is embedded in the wider political-economy that was forced onto them. However, following Harmon's observation, it is a legitimate moral issue to question whether tribal casino employees, like any type of employee at any type of employer, have a fair chance at economic opportunity and reward. The decision of some tribal governments, like the Blackfeet, to prohibit government employees from engaging in union organization may be a blow to workers' rights, but the Blackfeet and other tribal governments have nowhere near the labor force of states like Virginia, that have similar prohibitions. If tribal governments are to have any meaningful parity with state and local governments, they would have the same capacity as other governments to regulate their employees' labor relations.

Settler Colonialism and Tribal Gaming

To be clear, tribal governments' opposition to *San Manuel* are by no means a typical labor versus management struggle, wherein an employer seeks to undermine employee attempts to organize. Kamper (2010) illustrates how many Native nations have long histories of supporting organized labor. The challenges posed by tribal casino labor relations is not a question of whether tribal casino operators want to stop their employees from organizing—many of them have actively encouraged it since the earliest days of tribal gaming (Gordon, 2010, p. 5)—the challenge is which labor relation laws should apply. Since *San Manuel*, federal courts have weighed in on the new precedent in cases that affirm it. *Little River* and *Soaring Eagle*, demonstrate that the structure of federal appeals courts, where a court of six judges are split into panels of three, with decisions from one panel binding later decisions, created a scenario where a majority of judges rejected *San Manuel* but were bound to apply it. The three judges on the *Soaring Eagle* panel had no choice but to displace tribal for federal law on tribal lands. In this way, we can see how settler colonialism can be advanced even by those who would reject it. Likewise, the failure of the TLSA is not necessarily the result of policymakers plotting to undermine tribal sovereignty, but the intersection of tribal casino labor relations with the partisan politics of organized labor.

On its face, tribal casino labor relations might seem to be an obscure and inconsequential corner of federal Indian policy. The D.C. Circuit Court may have been right that applying the NLRA would only have "some unpredictable, but probably modest, effect on tribal revenue and the displacement of legislative and executive authority that is secondary to a commercial undertaking" (*San Manuel v NLRB*, 2007 p. 8). After all, allowing employees to unionize under the NLRA and not TRLOs might impact employees' wages and benefits but so far none of the casinos involved in these cases have closed due to financial hardships caused by

the NLRA. However, *San Manuel* and subsequent decisions may signal a broader shift towards greater constraints against tribal sovereignty. By throwing out the *White Mountain Apache* precedent, courts have signaled that successes of tribal gaming will result in reinterpreting laws to ensure that tribal governments remain on unequal footing with federal, state and local governments. In *Little River*, the 6th Circuit Court asserted that even though *Tuscarora* requires the Congress to have demonstrated intent for a law to apply to tribal governments, courts can infer Congress's intent without explicit evidence. With *Pauma* and the Supreme Court's refusal to hear its appeal, there currently is little opportunity for tribal governments to challenge *San Manuel* precedents through the courts. Now that the TLSA is mired in partisan fighting, it seems unlikely to mitigate the fallout of *San Manuel*.

While settler colonialism may be most visible in the diminished land-base of tribal governments, it is also at work when federal and state laws supplant tribal laws on tribal land, especially when these regulatory changes stem directly from tribal governments' achievements, like casino development. The cases described in this article and the failure of the TLSA demonstrate that settler colonialism continues to advance, even when the judges and policy makers responsible express support for tribal sovereignty. The *San Manuel* decision reveals that settler colonialism may have changed forms, but its underlying agenda remains the same. The double binds identified by Cattelino (2010) can come into play even by those who express support for tribal sovereignty. The structures of the United States political system require that challenging settler colonialism must entail more than changing the hearts and minds of individual judges and policymakers. Broader efforts of resistance are necessary, like the "politics of refusal" articulated by Audra Simpson (2014), where Native nations reject forms of recognition which force tribal governments into submission and interrupt narratives that purport the virtues of settler society. While the continued dominance of *San Manuel* signals a new wave of challenges, one factor remains clear: tribal governments will continue to learn from the structures of settler society in order to identify new strategies for strengthening their sovereignty.

References

- Cattelino, J. (2010). The double bind of American Indian need-based sovereignty. *Cultural Anthropology*, 25(2), 235-262. <https://doi.org/10.1111/j.1548-1360.2010.01058.x>
- Gordon, C. (2000). From hope to realization of dreams: Proposition 5 and California Indian gaming. In *Indian Gaming: Who Wins?* A. Mullis and D. Kamper, (Eds.). pp. 3-13. UCLA American Indian Studies Center.
- Gordon, T. (2018). *Cahuilla Nation activism and the tribal casino movement*. University of Nevada Press.
- Harmon, A. (2010). *Rich Indians: Native people and the problem of wealth in American history*. University of North Carolina Press.

- Hearing on H.R. 986, Tribal Labor Sovereignty Act (2017). *Hearings Before The Subcommittee on Health, Employment, Labor, and Pensions*. U.S. House of Representatives, One Hundred and Fifteenth Congress, First Session.
- Kamper, D. (2010). *The sovereignty of work: Tribal labor relations and self-determination at the Navajo Reservation*. School for Advanced Research Press.
- Lane, A. (1995). *Return of the buffalo: The story behind America's Indian gaming explosion*. Praeger.
- McConnell, M. (2018). This afternoon, the #Senate will vote to advance legislation from Senator @JerryMoran that would bolster the proper sovereignty of American Indian tribes in the face of excessive federal regulation. [Tweet]. https://twitter.com/senatemajldr/status/985980394280488961?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E985980394280488961&ref_url=https%3A%2F%2Fwww.indianz.com%2FNews%2F2018%2F04%2F17%2Findian-country-caught-in-drama-lawmakers.asp
- Rose, N. (2006). Gambling and the law: Court rules tribal casino is merely a casino. *Casino Enterprise Management*, April, pp. 60-61.
- Rossum, R. (2011). *The Supreme Court and tribal gaming: California v. Cabazon Band of Mission Indians*. University Press of Kansas.
- Schieber, N. (2018). Senate Bill to Curtail Labor Rights on Tribal Land Falls Short. *New York Times*, April 17, Section B, Page 5.
- Simson, A. (2014). *Mohawk Interruptus: Political life across the borders of settler states*. Duke University Press.
- Udall, T. (2018). Udall votes for Tribal Labor Sovereignty Act. [Press Release]. <https://www.tomudall.senate.gov/news/press-releases/udall-votes-for-tribal-labor-sovereignty-act>
- Wolfe P. (1999). *Settler colonialism and the transformation of anthropology: The politics and poetics of an ethnographic event*. Cassell.

Legal Sources

- California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987)
- Casino Paume v National Labor Relations Board No. 16-70397 (9th Cir. 2018)
- Federal Power Commission v. Tuscarora Indian Nation, 362 U.S. 99 (1960)
- Fort Apache Timber Co., 226 N.L.R.B. 503 (N.L.R.B. 1976).
- National Labor Relations Board v Little River, 359 NLRB 92 (6th Cir. 2015)
- National Labor Relations Board v Soaring Eagle, 359 NLRB 92 (6th Cir. 2015)
- Prohibition Against Collective Bargaining. Code of Virginia Statute 40.1-57.2 (2006)
- Seminole Tribe of Florida v Butterworth, 658 F.2d 310 (5th Cir. 1981)
- San Manuel Indian Casino and Bingo 341 N.L.R.B. 1055 (N.L.R.B. 2004)

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“This is not about gambling, it’s about our lives”: An Interview with Sheila Wahsquonaikeshik

Darrel Manitowabi^{a*} interviewing Sheila Wahsquonaikeshik^b

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Abstract: In this interview, Darrel Manitowabi speaks to Sheila Wahsquonaikeshik, Director of Indige-Spheres to Empowerment, a non-profit organization addressing Indigenous health and wellness. This interview explores Sheila Wahsquonaikeshik’s Indigenous gambling experience including work in an Indigenous casino in Ontario, gambling harm reduction outreach in northwestern Ontario First Nations, and gambling research collaborations. An outcome of this interview is a revelation that the practice of Indigenous gambling is connected to the wider context of colonialism and Indigenous gambling research requires greater inclusion of Indigenous peoples.

Keywords: Indigenous gambling, health and wellness, research

Background

Manitowabi: *What is your experience in the gambling sector and responsible gambling?*

Wahsquonaikeshik: I think when we look at the gambling sector, it could even predate when I actually worked in the *Responsible Gambling Council* (of Ontario) back, I believe it was in 2010. I worked prior to that at Casino Rama (Indigenous casino in Ontario) and it was there that I began to see things over many years—changes. I was actually quite excited to work at the casino, the reason being because my family works in two main industries, casino and firefighting, so my years with Casino Rama brought about some insight about the industry and about some of the consequences of people gambling to the point of harm, not only just for the gambler, but also for the staff. They get hardened and they also get antagonized by the behaviours of the players once they reach that point of losing a lot of money generally; or hiding the loss of money from their spouse. When I was seeing this, (I asked myself) am I really seeing what I’m seeing? Is this what it is? Is this what it’s all about? You know, because gambling is marketed as entertainment and it still continues to be. Yet we see people who are really adversely affected by gambling and it is marketed in a way that encourages people to come out and play; and play for a long time hoping to achieve the mythical dream of being that

millionaire, that winner. And it makes me wonder about, you know, the whole notion of winning and being a winner, and where does that come from? Is it an external? Is it external, this belief of winning? Or is it internal? And of course, I started questioning the health of people, like, do they really feel like *quote* “losers”? Do they actually have to come to the casino to feel like winners? Because even when they win, they play until their money is gone. It just brought about lots of questions and I did leave the industry for a year to actually go firefighting, to take that break. Physically, as a gambling staff person, you’re limited to the confines of maybe an 8-foot square area when you’re supervising; you’re confined to the table so you’re really limited in your physical mobility. So not only is it stressful because you’re responsible for money, but you’re also confined physically to a very small space. So, I needed to get out to do some physical activity that was fairly demanding and then I went back (to the casino). I didn’t go into table games. I went back as a pit clerk and it was totally different than my time sitting and watching as a dealer. I could actually see more, so you know seven years later after that, (thinking to myself) you know what? I really need to get out of here because it’s a very unhealthy environment for me and I do think that it is an unhealthy environment for others. But you get paid well in the industry and so it does keep people there because they have mortgages. Their income is, you

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know fairly secure; unless you get fired or something like COVID-19 happens. But I decided to leave and I wasn't actually sure how I was going to do that, but a package was offered, and it wasn't a very good package. I thought that's my out, it's a door opening for me to part ways with the casino and get involved in something else. In fact, I thought I was going to go back into the addictions field where I previously worked. I thought, well, maybe I'll work in a community-based organization or a group home or a treatment centre or something, but as it turned out one of my first interviews was in a community-based organization and it was around alcohol and drugs. That's what I thought I was going to be interested in, but then I noticed there was a posting from the *Responsible Gambling Council* for a service coordinator. I thought I'd throw my resume in there and see what happens, and lo and behold, I got employed there as a service coordinator, which led me to still be at Casino Rama, but working for a different organization. So, I was very familiar with Casino Rama, I was very familiar with table games, I had that experience of knowing the games, knowing the odds, basic strategy, how the shifts work, when the drop happens; I was very familiar with slot machines and so I was an asset to RGC (since) I was somebody who actually knows about casinos. So, I think that was 2010 when I started there and I thought, this is going to be really different, and it was to a degree, but then I realized that working in Responsible Gambling in itself is still part of the industry, and there's certain things you can and can't do, and there's certain things you can say and you can't say, and certain limitations. For example, when I first started working there, one of the things that I was really able to do was I wanted to go to conferences. I wanted to learn more about my work. Because I was working within the gambling sector, I ended up with a scholarship to go to my first conference in 2013 down in Las Vegas, the same time that they had the Global Gambling Expo (G2E) Summit. So not only was I attending this conference on problem gambling, and that in itself is troubling, using that term "problem gambling", but also going to that conference; but also attending the G2E Summit, which is probably the world's biggest summit on new technology that is coming into the industry. So that's basically how I ended up in the industry. My background up to the early 80s was in addictions and then it changed, it changed from addictions to working for an AIDS service organization which was really a community service organization for two spirited people in Toronto. So, addictions is where I thought I would end up, more around drug and alcohol than around gambling, so here I am in the sector and faced with some of the challenges that are within the sector on this side of the fence of mitigating harm. That could bring up a whole bunch of other things too. Like it could bring up things like how culturally located are these responsible gambling models? And it also doesn't take into account a large percentage of people who are facing harms as a result of problem gambling,

are not utilizing the services. So, you know, if they're not utilizing the services, where are they going? What are they doing? You know, where are they finding support? Where are they finding these places and spaces that will allow them to look at themselves and their decisions? And who they are? And why are they there in the first place? So, there are lots of different questions I have. I know that we say that we come from a culture, like many Indigenous cultures that had gambling as part of their life. But of course, I argue that gambling—how we see it in contemporary times, is so different than what is framed as gambling in pre-colonial times. So, what I mean by that is you mentioned a word in our language at one of the conferences, and I think it was in New Zealand, I can't recall the name of the word, but I looked up the root of the word. I broke it down, that word, and it doesn't actually translate to gambling, and actually it translates to, I remember, something to do with abundance; and abundance means different things. It doesn't necessarily mean to gamble but it may translate into an accumulation of something. However, that something doesn't put you at risk of losing it all. You know what I'm saying. It doesn't put our families and communities at risk. So, Indigenous gambling before colonization may fit the definition of risking something of value with an outcome that is unknown, yet at the same time, times were very different; we didn't have the same kind of economy that exists today. 80% of our time was devoted to the arts and the reason some of our artifacts, and our clothing, is in museums is because they're in such fine condition. We had the time to devote to those things because, you know, we had an abundance of food, so we had that opportunity to create these beautiful pieces. Gambling didn't jeopardize our overall livelihood or sustainability, and so when we think about it, it was crafty things that we made and designed. We could offer those up as things in those spheres of gaming that wouldn't put us in jeopardy and somebody would be able to benefit from a beautiful knife or something else of beauty and utility. So, I really have a lot of questions when non-Indigenous scholars talk about gambling, (they say) "well you guys had gambling here before," (and I say) don't default down to that because how it looked back then is very different than how it looks now. So, don't use that, don't use that argument as a justification for gambling to exist how it exists in our communities now because it does cause harm.

Indigenous Harm Reduction in Gambling

Manitowabi: *Can you talk about your experience providing gambling harm reduction education and services in Northwestern Ontario, what brought you there, and the kind of work you do and did?*

Wahsquaonaikezhik: I was working down south and within 2-3 years somebody from Nishnawbe Aski Nation (NAN is a northwestern Ontario Treaty 9 political organization) found out about the work that I was doing

down south which was the Aboriginal outreach initiative for the *Responsible Gambling Council*. This came to exist because many of our communities in Southern Ontario were asking for presenters to come in and talk about safer gambling, harm reduction, you know these things within gambling spaces. The reason for that was because of the residential school survivor settlement. Many of the survivors were getting funds and what they were noticing was they were spending their money on drugs and casino going. So that's why those communities asked for that outreach, so that's how that program came into existence. Somebody from NAN caught wind of that and we met at an OARGP working group meeting which is the Ontario Aboriginal Responsible Gambling Program working group meeting. I was presenting in that and the representative from NAN happened to be there, and said we would like you to come up and do some work for us. I said if I could get the time off work here and come up there, then I would do that. So, I moved up here (Thunder Bay), camping out of a tent until the snow flew because I thought it was only a short-term contract position for three months. It ended up being much longer than that so I developed the program further. There was concern with training NNADAP (National Native Alcohol and Drug Abuse Program) workers, and I thought it would be an interesting project to see what would happen if we started treating the young people who were gaming and gambling. So that's how that began, we did a couple of years of training NNADAP workers and also understanding what some of the challenges are in the communities. One of the main challenges is actually seeing gambling as problematic for the young people. When I first started working, I was going to the local schools, going to student gatherings to kind of get the word out that we're looking to do a couple of sessions with them on gambling. At that point, NAN and York University got a research grant to do some research into gambling with the young people so we hosted four sessions with the young people. We learned then that 100% of the youth had gambled at some point in their life, and in many instances, they were introduced to gambling by their parents. And the question arose that was not part of the overall questions that we were asking around gaming because none of them stated that they were gamers. I said what's going on here? I know these guys are video gamers. What is happening? Why are they not disclosing their video gaming? I never really got the answer to why they were not disclosing their gaming. They brought all of their gaming paraphernalia with them when we were having the gambling workshops and they were gaming in their rooms. As it turned out, after all the research was done and the sessions had happened, I said do you know what is going on with video gaming you guys? Are you guys gamers? Again, I would ask them, and they said, "oh yeah we're all gamers." Then I said how come you didn't say that in the workshop? They all kind of shrugged their shoulders and they didn't say anything.

So, I began to have little conversations because we had established a relationship, you know a really good relationship. During that year, in sessions we got to talk about personal things, and that included me sharing with them: "You know, I hear you, and I understand some of what you're going through because these are some of the things that I've gone through. This is not the way that I want you to go, I want to prevent you from going this way because it's not, it doesn't make you feel good, you know this pathway of challenges, addictions, group homes, child and family services. This is a terrible way you know, what I'm saying". And so we got to know each other and we established a good rapport, great trust, great communication, and they started telling me, you know, we like gaming because it helps us with stress, or we like gaming because it's fun, you know so on and so forth. I thought this is very interesting what they're saying because I know so very little about gaming and they know that because I'll ask them some questions. They see me as an old woman, which is really great because they call me *kokum* (grandmother) and so they see me as old woman, or they're just teaching grandma, you know, about what they do. There's no judgement there from me, you know, "you shouldn't be doing that", or what have you. One thing I do want to point out is that gaming never became a problem at the workshops. They were always able to get up and they were always able to participate so until it becomes a problem, they are allowed to bring their paraphernalia with them. So, in any case I learned a lot from them, I continue to learn a lot about what those video gaming spaces are like, and I really enjoy learning from them. They do see me as a learner, as someone who is genuinely interested, and also, in a gentle way, I kind of challenge them. For example, when you're gaming all night, how able are you to get up in the morning? Either go to school or go to work, does it affect you? Now I've been working with them for so long, they just know it does interfere, and (they think to themselves) I don't know what else to do about my stress, or I don't want to be on medication for anxiety or depression or what have you, so there is some way that gaming does play a very important part in their lives. I think what is important is finding those tools and find a balance between moderating or managing stress and still being able to game as a fun activity.

Gamblification of Gaming

Maniowabi: *In your work, do you distinguish gaming and gambling as two different things or how do you classify them?*

Wahsquaonikezhik: Yes, they are different in some ways, if we look at things like the gamblification of gaming, and gamification of gambling, there is that grey area, what do we call that? Even scholars such as yourself see that grey area, it's been talked about at conferences for a fair bit, in more recent times 5 or 7 years, where it's really become on the radar for researchers and scholars.

So sometimes youth do gamble for money on the game, and there's different ways that they do that. It's usually within their clan system (as in video game clan or community of players), they'll gamble within their clans and between clans. So, it's funny, they have the same kind of terminology that we have as Indigenous people. They talk about clans and things like that which we do talk about. My concern is more or less around the gamblification of gaming, the role gaming plays in their lives because I see that as more problematic than the gambling that's happening online for the Indigenous youth. When they do hit that region that they call *the zone*, they just totally lose track of time. They're so absorbed in their gaming, that thing, they don't even know what time it is and they can game for a great length of time, 13-16 hours all night, and they sleep all day because they're tired. We had a conversation and it was quite a gentle conversation with a few of our youth that are gamers. And I said to them, there are times when you just get up in the morning and you know it's a sunny day but you can't even bring yourself to open up the curtains. You just don't even want to open those curtains, you just want to stay in bed or stay resting and stay in that dark little cave that you created, and just not even face the world. They said, "yeah there's times when we don't want to open up those curtains," and they don't open up those curtains. That tells me something about their listless state when they're so much in this world of gaming, so much in the world of isolation that they don't even want to open their curtains to see the sunshine, to see the trees, to go for a walk. You know, going for a walk can really shift things. With gaming you need to use energy, and there's a lot of energy you put out in to a game. So, when they tell me about their states of mind, and the things that they do, I see a much bigger picture of what's happening, which is why I am excited by the team (a youth-led research team and youth steering committee in collaboration with Dr. Fiona Nicoll from the Alberta Gambling Research Institute) that we want to move forward with the kind of research that the youth are interested in. This research is going to at least in part, I hope, answer some of the questions that they have about 'why can't I stop? Or why do I feel the way I feel when I game?' You know, this knowledge can help them to ground themselves into being able to better navigate the world with all of its challenges.

Indigenous Gambling is Not about Gambling, It's About Life

Maniwabi: *In a previous presentation I've heard you say Indigenous gambling is not about gambling can you share what you mean by this statement?*

Wahsquaikzhik: I can tell you when that was said. It's about our lives, I think that was the end of that statement, gambling isn't about gambling, it's about our lives. When that came about, you could actually see this, when I ended that video (in my presentation) with

that statement. It was our youth, when we talked about gaming with the youth, and when we did the research on gambling, it wasn't specifically gambling. They talked about everything about their lives. They talked about what the challenges are when they're flown in from communities to go to school. What is it like to live with families that are not their own? They live in basements with little or adequate support that meets their unique needs. What is it like to come from a community and having experienced neglect and sexual abuse and violence? What is it like to come here and feel so alone? Like the depth of the loneliness that they feel like 14-15 years old coming here alone and those kinds of things. What is it like to go to school? One student said, "you know we all go to school together but we don't know each other, we don't talk." That was a profound statement, you know. That's a very profound statement to be among people and be so invisible among your peers and many of them felt the same way. So, holding these weekend retreats as a research project was a time to get to know each other with some rules. One of them is that we eat together and there's also social time. We also have movie night. We have gaming setup stations now for them they can play until about 1-2 in the morning. Then we shut it down. (For the retreat) we would pick them up, there's a gentleman here his name is Moffat (Makuto), and he is the ED (Executive Director) of the Regional Multicultural Centre. We both drive the students to a hotel that is just on the outskirts of the city, and the reason we do that is because if they're in the city, they can get themselves into mischief, into trouble with drinking and so on. The school that they come from has a suboxone program in it that's distributed to the youth. So, we take them out of town because you want them to have that safe space. We also want them to create their own community, and we tell them this is your space, you know we're going to help guide the process, but we want you to know that this is a safe space for you guys. We don't allow for violence, we don't allow for bullying or any of that kind of stuff, it's all gay positive, we want you to feel somewhere in the city that there is a safe place for you, and this is it. So here they are at the hotel, in the outskirts of town, and even though they were trying to understand gambling and their lives and whatnot, they talked about so many other things. For example, how do you know if somebody is affected adversely by gambling? But it wasn't said that way. It was, how do you know someone might have a problem? One person said, "yeah they leave their kids in the car when going to the casino." This other youth said, "that happened to me." So, then they recount the story, you know, how this happened to them, you know, that they were left in the car while their parent or parents went onto gamble at a casino. You could see the hurt that has come from having experienced that. Many of the youth also experience or have had experience with the child welfare system, child and family services. So, what I mean by that statement, gambling is not about

gambling, is that it's so much about the other things in their lives, and the effects of gambling. One person said, "I don't know anybody in my life who doesn't gamble or game, everybody does one or the other or both." The origins of the hurt are far beyond the focus, what we are focusing on, which is the focus on gambling. It really is not about the gambling, it's about what came before, who is the person? Who is the person culturally, spiritually, mentally? What is their connection to self? How can we encourage the connection to self and to the environment to the spiritual sense of goodness that they don't carry? That's what I mean when I talk about gambling not being about gambling but about our lives and there's so many examples of that. You know, sometimes people, when they're anxious, they say, they lash out, they come across as aggressive or you know angry. If we come to know, you know, what the roots of anger are, we'll come to know how those experiences shaped who they are, and how they respond to things. Then we can create those new neuropathways to help in part. And I think that when we work together as a team of adults, I don't even want to say scholars or researchers, because we are adults guiding a process with our young people that can bring them to better health. It seems so sanitized when we say we're going to research you. No! We want to learn from you, you're the reasons why we get PhDs. I didn't think you're the ones (researchers) who should be getting the PhDs, you know, it's your knowledge (the youth's) that's going to help us put this puzzle together. You guys have those answers and we're just going to follow that, we're going to follow that lead, that you have. We're going to follow that voice of truth, and of experience because that's all we have.

Background of Indige-Spheres

Maniowabi: *Can you talk about your work in Indige-Spheres, and how it came to be, and some of the work that you do?*

Wahsquaonaikezhik: Indige-Spheres, it's been around since 2016, it's a very small organization, we mainly work with two projects, one is in the gambling sector, the other one is human trafficking. It came as a result of, personally I don't like playing, "mother may I." I don't like, "well we have to ask up the line," we don't have time to ask up the line, we need to do it, and we need to do it now, whatever the *it* is, so I thought the only way I'm going to be able to do this is if I create my own organization that really listens to the needs of the people and responds as quickly as we can without saying we have to go up the line. Well, we are that line, this is the line that says where the line is drawn, if they say we need this, then we definitely need it. So, no let's not ask if we should do it, it's, well, it's a need, so why wouldn't we do it? That's how the organization really started, I thought I can't do this delay game because it's killing people, our young people are dying, we have disease up the yin-yang with diabetes, cancers, you

know, so on and so forth. We have children in care, you know it just goes on and on, the list of things that are barriers to getting the help and support that we need. So that's how organization came, I think it's a small organization, we don't want to grow it at a rate where it's beyond our capacity, so it's going at a nice even pace right now.

Gaps in Indigenous Gambling Research

Maniowabi: *What are some of the gaps in Indigenous research and scholarship that you've observed?*

Wahsquaonaikezhik: The gaps within our communities are many. One is that we continue to have non-Indigenous folks do research in our communities and I think that is not effective. Some of them have been coming into Indigenous communities for 20 years or more and there's been no substantial change. There's no substantial growth. These are people who say, "we're coming in to build capacity." Well, you haven't built capacity in 20 years, so obviously the work that you're doing isn't effective. You're asking the wrong questions. Just because money is available in a certain area of research, does it mean it's the actual area of research that we need to be investigating? In my years that I've been in this field, I have seen very few Indigenous scholars actually be included. What I mean is there's virtually no new other researchers other than a handful of PhD students or people who have achieved their PhDs in this field. Laurie Morrison is one, Ruth Ann Herd is another. There's an Indigenous man in Australia who's helped non-Indigenous researchers in doing research in Indigenous communities for years, and probably decades, and they have not even honored him with a PhD for his participating. At this end I just sit and shake my head, wow, money talks. Not only does it talk in the gambling sector, but it talks in the gambling research sector because it seems to be always who you know, who you align yourself with, will determine outcomes. And if you play the game, you get to know the rules of the game to play, the game I refuse to play. I didn't like the game beforehand and I don't like the game now.

Indigenous Health Template

I was at a health conference at McMaster (University in Hamilton, Ontario), and I was talking about a template, and someone was asking about a template we could use for health. I said we have our template and they were all ears. Now there was probably 20-30 people in that room, and they were looking, asking, what does your template look like? I said, it's our creation story that's our template, and it's not 600 pages—300 pages, it's not a book, it's four days of sitting down listening and learning and every time you listen to our template, in our stories you always take away something new. So that is our template for health. I welcome any of you to come to our lodge because it is an open lodge. You can't belong to our lodge, but you are certainly able to come and learn and be quiet and listen. So, I still

welcome people to come and listen to our template and learn.

The Importance in Targeting Youth in Harm Reduction Initiatives

Manitowabi: *In your work, the youth figure prominently in the work that you do, can you talk about how that focus came to be and why you think it's important?*

Wahsquaonikezhik: I'm guided by my own personal past, and as a young person, I had a lot of challenges. So, youth have always been in my heart even though I resisted working with youth for a long, long, time. But every job that I had, every employment opportunity has always led me to working with youth, so I've finally embraced it. I thought, you know, this is really my calling you know. The Creator, and all of the forces of the universe are bringing me to work with the youth and I work really well with the youth probably because they know that I do care about them because I put that out there. My energy puts out to them, you know I care about you guys, I don't want you to go down the same path I went down. It wasn't a very happy path, it wasn't a very healthy path, but if you go down that path, I'm not going to leave you either, you know what I mean? I'm going to try and get you out of that path, and so my heart is with the youth, and I think the connection is there, the energy is there, they do trust me, and I certainly have a big heart for the work that I do with them. I challenge them, and they know I challenge them, and sometimes they like to tiptoe like they're being sneaky, and sometimes they're caught, and sometimes they're not. But when they get caught, they always have these funny little grins, like there we were thinking we're being sneaky, and they forget that as adults we have all been youth too. It may have been a different time, but we've done our rounds of sneakiness too, and sometimes we got away with it, and sometimes we didn't, but it's something I get a personal satisfaction from. People call me for different reasons to do work with the youth, whether it's girls, boys, co-ed groups, because even those folks that work with youth, can see the work that I'm doing with youth. They want to know, how do you do that? And really, what it is, you got to go deep in yourself, man you have to feel your own emotions, you have to be real with them, you have to be real with yourself, and yes be real with them, because they're going to know that if you're full of shit, you know what I'm saying? They're going to know if you're bullshitting them, they're going to know if you're not true because they want that somebody they need if they can't go to their family, if they can't go to their friends, if they feel they want to have a good heart-to-heart. Some of them call me up, and they say, "hey Sheila can we go for a drive?" And usually, we go for a drive because they know the drives are the things that I do. So, if I say I'm busy, I can't really go right now, are you able to wait? Sometimes they say "yeah" but if you could come now, it'd be good because they have

something important that they want to share. So, I say I'm going to do that, I'm coming right now and I'll drop what I'm doing and then go for a ride. Sometimes just a short ride, and sometimes it's a longer ride. They talk, I don't always know what they're going to talk about, I let them know it's important and they appreciate the time that people will take, not just me, I know others in the city that do the same thing. They go out and they just talk and they listen. What they need is that listening in the ear, sometimes I might chime in with an idea, but it's mostly that I want to hear their idea. So, what helped you the last time? What do you want to do with that? You know but real sincere questions. Just like a therapeutic conversation if you don't want to have a therapeutic conversation. What do you (Sheila) think? I want you to be real, and if real includes having a bit of swear time in there, then that happens too because they kind of chuckle at that. When they hear me swear, they find it kind of funny. I try not to swear overly so but I do sometimes. You know what goes on in your mind sometimes, like sometimes you just want to say "fuck off", and they chuckle away and they nod. Sometimes you do, but we don't, and so let's go out and say a few "fuck offs", then, you know, because maybe that's what you need. Maybe you didn't swear but at least you can get it off your chest. You don't have to carry that because that's a really violent word, that's a really hard word and you don't want that word to manifest inside yourself. You don't want to hold on to something as toxic as that and so I'll say, yeah let's go down to Kekabaeka Falls (outskirts of Thunder Bay, Ontario) and let's go somewhere where you can really say something out loud that you don't want to hold on to. We can put our tobacco down and continue our ride and go home. So those angry harsh words that sometimes they have inside of them, I want them to release that because I don't want that to manifest in them and turn into some something that will cause harm for them later on, maybe manifesting in diabetes or cancer or some ailment, acid reflux, even things like that, or acne, things that are not going to make them feel good about themselves so it's good to let that release and go.

Future Work

Manitowabi: *What are your plans for the future?*

Wahsquaonikezhik: You know I'm definitely continuing on with the organization, as small as beautiful as we are. I am definitely moving towards doing a PhD at Laurentian (University in Sudbury, Ontario) if not possibly another university. It's something that I think I am needing to do to, further myself for my own knowledge, and understand how that system works and also be able to create change that is youth-led and youth-driven or women-led and women-driven you know. So, I want to have those opportunities to invite those changes and to work with other scholars who are interested in those kinds of changes.

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Darrel Manitowabi, PhD, is the inaugural Hannah Chair in the History of Indigenous Health and Traditional Indigenous Medicine at the Northern Ontario School of Medicine. He is an Indigenous anthropologist with research interests in Anishinaabe ethnohistory, Indigenous health, Indigenous-state relations and gambling.



Commentary: Leveling Up: Reminiscing on the Evolution of Gambling within the Video Game Industry

Caitlyn Salmon^{a*}

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Abstract: This article is an expert commentary by digital artist Caitlyn Salmon, written for the Critical Indigenous Gambling Studies special issue of *Critical Gambling Studies*.

If you were born in the 80s, chances are you grew up with or played with one of the fourth-generation consoles (NES/SUPER NES/SEGA GENESIS) in your childhood. I can remember my mother telling me to turn down the TV, so she would not be annoyed by the endless beeps, and blips that Mario and Sonic emitted while I furiously mashed the controller buttons. Despite being quite decent at playing games on both Nintendo and Sega, I could never master two of the mini games within ***Sonic the Hedgehog 2*** and ***Super Mario Bros 3***: the slot machines. These mini games would give you extra lives, coins, and power ups if you were successful, but I was far more interested in the story, graphics, and music of the games themselves. I suppose from a young age, the notion of gambling, even if it was within a game, just did not fascinate me.

Despite the technological limitations of the late 80s and early 90s, Nintendo and Sega had a selection of Casino games for their home entertainment and handheld consoles. The mid to late 90s introduced a new roster of consoles: Nintendo 64, Sony PlayStation One, and Sega Dreamcast. I recall being at Toys R US in 1998 and seeing ***Golden Nugget 64*** in the video game Section. This was the first Casino game I had ever seen with a substantial budget. Innovation was inevitable for video games, and in turn developers went above and beyond to make every aspect as enticing as possible, especially gambling.

The introduction of the highly renowned Pokémon franchise in the 90s gave birth to a multitude of gambling activities. I can recall watching my friends engage in playing card and video game battles on the schoolyard. The stakes for these games were quite high. If you lost a battle, you risked losing your valuable card collection, the Pokémon you had spent so much time leveling up on your Gameboy, or anything else you wagered. In 1998 the Pokémon

Pikachu digital pet was released; the toy encouraged you to take care of Pikachu by buying him presents via virtual currency. To obtain the virtual currency the owner was encouraged to walk around and make use of the pedometer to obtain credits, or you could gamble your credits via a slot machine within the device. The more presents you bought for Pikachu the more adoration he would show you; if you neglected Pikachu or did not buy him gifts, he would express extreme distaste for you. I had other digital pets, and Tamagotchis as a child, but I remember finding the Pokémon Pikachu device to be manipulative, superficial, and stressful with its emphasis on encouraging gambling. Another subtle method of promoting gambling that gaming companies pulled in the 90s was publishing Game magazines (***PSM***, ***Nintendo Power***, ***Electronic Monthly***) that offered sneak peaks at upcoming games, demo discs, and tips and tricks for beating games. Official game strategy guides were also a hot commodity during this decade, and perhaps the most overt money grab was the gaming tips hotline. For \$1.50-\$3.00 a minute you could call a hotline and receive information on how to beat a boss, or finally discover where every hidden secret in a game was. I never called into those hotlines, but I certainly did spend a substantial amount of money on video game magazines and strategy guides in my childhood due to a lack of the internet.

During the aughts I transitioned to my teens, and eventually adulthood. My interest in video games continued to thrive and I became more cognizant of the changes happening within the industry. I witnessed the birth of online gaming, cross platform gaming, live streaming, and multiple console wars. One thing I noticed was a huge increase in mini-games

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and side activities within the narrative of AAA games.² Most of these mini games could include anything: playing sports, dancing, racing, dating, etc. It became clear that gambling in games had undergone a complete overhaul; it wasn't just slot machines anymore, developers had built full blown casinos within the game world itself. Rockstar's **Grand Theft Auto San Andreas** is set in the fictional world of Los Santos, which was clearly modeled after Los Angeles, San Francisco and Las Vegas. I can recall my friends coming to school and lamenting on how they were millions in debt (in game currency that is) within the game due to gambling at the casinos. This all seemed like innocent fun. Little did I know the twenty-tens would prove to be a truly sinister decade for gaming.

While studying at Seneca College in 2014, it was required that my classmates and I attend a class on Studio Production. The essence of this class was to pitch an idea for a potential game and create concept art, assets, a level, and a proof of concept for the game, within a mock studio setting. While our instructor encouraged us to create our game for the major consoles of the time (PS3/PS4/XBOX 360/XBOX ONE/WII U) he also encouraged us to be considerate of the mobile gaming platform as well. Most mobile games are free to play and download, however developers of these games make most of their money by charging for DLC (Downloadable Content) and various special in-game items: loot boxes, currency, skins, weapons, etc. This vastly profitable business model has left developers open to criticism since these microtransactions are often non-refundable and aimed at a younger demographic. There are countless horror stories of parents finding out that their young children have racked up hundreds or thousands of dollars of debt by making purchases on mobile games and, despite trying to contest the charges, they are told they simply must pay for it.

I do not have much of an affinity for mobile games, or purchasing DLC in games, but some colleagues of mine have expressed that making these purchases gives them a sense of gratification like a drug or gambling addiction. Of course, games on consoles and PC are not without fault either. During the twenty-tens some of the most loved and renowned game publishers such as Konami, Activision, Bethesda, and EA have created entire IPs³ which thrive upon microtransactions and pay-to-win mechanics. The games featuring these elements have been called egregious, greedy, and insidious, as the essence of the

games is no longer about skill but more so about who is willing to spend the most money to have the best stats and gear.

On a positive note, gamers have fought back against these deceptive and manipulative tactics by boycotting games, leaving negative reviews and utilizing social media to unite. In 2017 the UK government held a court hearing with Electronic Arts (EA) regarding the company's questionable business model, which resulted in the now iconic Meme and phrase "surprise mechanics".⁴ We are now in the twenty-twenties, and have a new generation of consoles (PS5/XBOX SERIES X) and state-of-the-art innovation, which includes augmented reality (AR) and virtual reality (VR). The playing field for creating games is no longer just for AAA developers and publishers but for Indie developers⁵ as well. The question remains: where will gambling in gaming evolve to next? Without a doubt I predict there will be an increase in mobile game Microtransactions. Their allure is too great and with the success of Pokémon GO (an AR game released in 2016) there is much capital to be gained.

Twitch is another lucrative platform that is currently in the process of a metamorphosis, while the platform does prohibit illegal activity, they do not specifically ban gambling streams. I wouldn't be surprised if **Twitch** created a separate category for gambling in the future, very much like they did for their controversial streamers who do "Hot Tub" streams. I do think that AAA game studios will have to rethink their strategy of trying to con players into purchasing overpriced DLC, and superfluous add-ons. After the absolute disaster of CD Projekt Red's **Cyberpunk 2077** in 2020 it will be a miracle if game publishers and developers can successfully convince gamers to even pre-order games anymore.⁶ Dropping a broken game at launch after multiple delays, all the while forcing your employees to endure grueling crunch time during the entire production is something players and investors take note of. Watching CD Projekt Red attempt to salvage their reputation due to these reasons will be gripping. The relationship between gamers and developers is somewhat contentious, however that does not mean that the industry itself is without good intentions. The fact that developers are facing backlash from their mistakes is a good thing, as it allows them to grow and regain trust from their audiences. It is far better to create a product that is special and has replay value, as

² Steinberg, S. (2007). *The Definitive Guide: Videogame Marketing and PR* (Vol.1). Power Play Publishing
<https://pdf-drive.com/pdf/Scott20Steinberg20-20Videogame20Marketing20and20PR20Vol.20120Playing20to20Win2028200729.pdf>

³ World Intellectual Property Organization (2016). *Understanding Industrial Property*.
<https://www.wipo.int/publications/en/details.jsp?id=4080>

⁴ Diaz, A. (2019, June 21) EA calls its loot boxes 'surprise mechanics', says they're used ethically. Polygon.

<https://www.polygon.com/2019/6/21/18691760/ea-vp-loot-boxes-surprise-mechanics-ethical-enjoyable>

⁵ Dutton, F (2012, April 18) "What is Indie?" Eurogamer.
<https://www.eurogamer.net/articles/2012-04-16-what-is-indie>.

⁶ Edge Staff, (2021, April 3) What can we learn from the Cyberpunk 2077 launch disaster? Edge.
<https://www.gamesradar.com/what-can-we-learn-from-the-cyberpunk-2077-launch-disaster/>

opposed to creating something that is cheap and forces your consumer to constantly spend money to get a temporary repetitive high.

Gambling in the video game industry is here to stay. While taking all the pros and cons into consideration, it is important to be informed and self-aware of the content you are consuming, whether it be games, films or literature. While I may be able to tell the difference between an amazing video game experience versus a blatant money-grab, someone else may not. It is my hope that consumers make informed decisions by doing their research, assessing reviews and, more importantly, thinking critically about the games they are playing so they do not fall victim to harms caused by gambling within games.

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Commentary: Gaming in Kahnawà:ke

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Abstract: This article is an expert commentary by lawyer Murray Marshall, written for the Critical Indigenous Gambling Studies special issue of *Critical Gambling Studies*.

Introduction

June 10, 2021 will mark the 25th anniversary of the enactment of the *Kahnawà:ke Gaming Law*² (the ‘Gaming Law’)—a significant milestone for Kahnawà:ke and a good opportunity for a brief retrospective of its accomplishments in both online and terrestrial gaming—and a review of recent developments within Kahnawà:ke Territory.

First, some context. Kahnawà:ke is an Indigenous³ community of approximately 9,000 Mohawk persons located on the south shore of the St. Lawrence River, 20 minutes from downtown Montréal, Canada. The Mohawk Territory of Kahnawà:ke (the ‘Territory’) presently occupies approximately 20 square miles.

The Mohawk Council of Kahnawà:ke, the community’s elected governing body, enacts laws and creates institutions that are necessary for maintaining peace, order, and good government within their Territory. Kahnawà:ke has its own police force (the Kahnawà:ke Peacekeepers), court, schools, hospital, fire station and social services, all of which operate under the control and regulation of the Council and laws enacted by the Council. The Mohawks of Kahnawà:ke have consistently and historically asserted sovereignty and jurisdiction over their Territory. They have never been defeated in battle and have never entered into a treaty with any government that waives or diminishes their sovereignty. Kahnawà:ke’s jurisdiction over gaming flows from its inherent right as an Indigenous community to govern its own affairs. This right is an aspect of the ‘aboriginal rights’ recognised and affirmed in subsection 35(1) of *Canada’s Constitution Act, 1982* and, more recently, in

the United Nations Declaration on the Rights of Indigenous Peoples (‘UNDRIP’).

Everything that Kahnawà:ke has accomplished in the gaming industry over the past generation has been grounded on its own inherent Indigenous jurisdiction. In fact, Mohawk gambling traditions date back many hundreds of years before the European colonization of North America. Historic evidence confirms that betting on games of skill and chance has always been integral to the Mohawk culture. Games such as lacrosse—sometimes called “the little brother of war” were used for high-stakes “winner take all” events between Mohawk and other Indigenous communities and were often used as a means of resolving conflicts. Games were always subject to a complex set of rules and were closely monitored by designated officiants.

Although some commentators have questioned the validity of Kahnawà:ke’s jurisdiction over gaming, no government, person, or agency has ever initiated a legal challenge of any kind. The only occasion on which Kahnawà:ke has been involved in a judicial proceeding resulted in a ruling by the Superior Court of Québec supportive of Kahnawà:ke’s role in online gaming⁴.

Indigenous Gaming in Canada

Presently, there are only two ways that an Indigenous community can participate in the gaming industry in Canada:

1. If possible, enter into an agreement with the province in which the Indigenous community is located⁵; or

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² MCR #26/1996-97, 10 Ohiari:ha/June 1996 <http://www.kahnawà:ke.makingdecisions.com/legislation/laws/docs/Gaming.pdf>

³ Although the term ‘First Nations’ is often used to describe Indigenous communities in Canada, I prefer and will use ‘Indigenous communities’ throughout this article.

⁴ *Horne v. Kahnawà:ke Gaming Commission et al.*, Superior Court of Québec, District of Montreal, Docket No. 500-17- 031045-068, July 4, 2007: <http://gamingcommission.ca/news/pr07042007a.pdf>

⁵ Pursuant to paragraphs 207(1)(a) or (b) of the *Criminal Code of Canada*.

2. Exercise and assert the Indigenous community's own jurisdiction over gaming.

Both options have inherent uncertainties. For example, although most Canadian provinces have developed arrangements to share gaming revenues with Indigenous communities, the province of Québec⁶ has steadfastly refused to follow suit—leaving it to Indigenous communities to assert their own jurisdiction over gaming, as Kahnawà:ke has done. Moreover, although Kahnawà:ke's assertion of jurisdiction has been successful for 25 years, there are limitations to reaching maximum potential due to a continuing stigma associated with assertion of Indigenous jurisdiction.

Further, both options tend to isolate Indigenous communities by creating an uneven patchwork of different provincial arrangements—which are often complex and byzantine⁷.

Most importantly, neither option allows for full participation by Indigenous communities in Canada's gaming industry. This stands in contrast to the United States where the sovereignty of Tribes is recognized as giving them a *right* to participate in gaming so long as the State offers the same kind of gaming. To date, Canada has recognized no comparable right for its Indigenous Peoples.

Online Gaming in Kahnawà:ke

Kahnawà:ke's Gaming Law established and empowered the Kahnawà:ke Gaming Commission (the 'KGC')—the regulatory body that licenses and regulates all gaming and gaming activities conducted within and from the Territory. In 1998, Kahnawà:ke built within its Territory a state-of-the-art co-location data centre ('Mohawk Internet Technologies') aimed at the online gaming industry—still in its infancy at that time. In July 1999, the KGC enacted its *Regulations concerning Interactive Gaming*⁸ and Kahnawà:ke's foray into the online gaming space was launched.

Since 1999, the KGC's distinctive red, white, and black logo has become a familiar sight—appearing on literally hundreds of online casino, poker, and sportsbook sites⁹.

By 2005, Kahnawà:ke dominated this global industry. In a research report on online gaming dated June 14, 2005, Desjardins Securities found that:

Kahnawà:ke is the most popular jurisdiction for the top 100 online gaming sites...The geographic proximity to the North American market as well as the relative political stability make this sovereign community ideal for

establishing online casino operations. Over one fifth of the top 500 online casinos have their sites based in this jurisdiction.

Since 2015, the Mohawk Council of Kahnawà:ke took the initiative to become the operator of the well-respected gaming site: Sports Interaction¹⁰. For the purposes of this project, the Mohawk Council established an entity known as 'Mohawk Online'. To demonstrate its commitment to operational integrity, Mohawk Online chose to become one of the most tightly regulated gambling companies in the world. Mohawk Online is licensed and regulated by the Kahnawà:ke Gaming Commission and the Jersey Gambling Commission and is supervised for anti-money laundering and counter terrorist financing controls by the Jersey Financial Services Commission. Mohawk Online accepts players only from Canada. As a socio-economic initiative established for the benefit of the Kahnawà:ke community, revenue generated by Mohawk Online is invested back into the community to help create a better future for the people of Kahnawà:ke. Revenues received from Mohawk Online's first five years of operations exceeded expectations and have already produced tangible benefits within the community.

Terrestrial Gaming in Kahnawà:ke

In 2007, the KGC enacted its *Regulations concerning Poker Rooms*¹¹ and Kahnawà:ke moved into the terrestrial gaming industry. Within three years, several poker rooms were operating within the Territory including Playground Poker¹² and Magic Palace¹³. With 75 poker tables, Playground is home to the largest poker events in Canada, including the World Poker Tour.

In 2018, the land-based gaming offering in Kahnawà:ke was supplemented with the addition of electronic gaming devices ('EGDs'), currently available only at Playground Poker and Magic Palace. Licensed and regulated under the KGC's *Regulations concerning Electronic Gaming Devices*¹⁴, revenues generated from the operation of the EGDs is shared with the Mohawk Council and used for the benefit of the Kahnawà:ke community.

Benefits for the Community of Kahnawà:ke

The gaming industry in Kahnawà:ke has directly or indirectly generated hundreds of jobs and training opportunities—for both community members and residents of nearby communities. Jobs include administrative and managerial positions, customer support, network technicians, dealers and restaurant

⁶ Canada's second most populous province: <https://www.quebec.ca/en/>

⁷ *First Nations Gaming in Canada: Navigating the Labyrinth*, Murray Marshall, *Gaming Law Review*, Vol. 23, No. 8:

<https://www.liebertpub.com/doi/10.1089/glr.2019.23810>

⁸ <http://www.gamingcommission.ca/docs/RegulationsConcerningInteractiveGaming.pdf>

⁹ <http://gamingcommission.ca/>

¹⁰ www.sportsinteraction.com

¹¹ <http://www.gamingcommission.ca/docs/KGCPokerRegulations.pdf>

¹² <https://www.playground.ca/>

¹³ <https://magicpalace.ca/>

¹⁴ <http://www.gamingcommission.ca/docs/KGCPokerRegulations.pdf>

workers. In a small Indigenous community, this has had a significant positive impact.

The gaming industry has also created several important revenue streams for the Mohawk Council—used for the benefit of the community—including the licensing fees collected by the KGC; commercial revenue received from Mohawk Online, Mohawk Internet Technologies and the land-based poker rooms and EGD facilities. Over the past 25 years, tens of millions of dollars have been generated from the gaming industry for the benefit of the Kahnawà:ke community—a model of Indigenous self-sufficiency.

In addition to the tangible benefits, Kahnawà:ke's exercise of jurisdiction over gaming has put the community on the international map. For this relatively small Indigenous community, the recognition and respect it has earned—from players, regulators, and governments around the world—has been priceless. Kahnawà:ke has always recognised the value of dialoguing and, wherever possible, cooperating with regulatory agencies in other jurisdictions. Over the years, the KGC has signed Memoranda of Understanding or exchanged letters of mutual cooperation with regulatory agencies in Antigua, Malta, Alderney, Jersey and several Tribal and First Nations entities. These relationships have proven to be beneficial on many occasions. Within the past five years, the KGC exchanged letters of mutual recognition and cooperation with the Division of Gaming Enforcement for the State of New Jersey—one of the oldest and most respected gaming regulatory agencies in North America.

Everything that Kahnawà:ke has built and developed over the years has been entirely with its own abilities and resources with no assistance—no loans, subsidies or handouts—from any outside governments or banks. The gaming industry in Kahnawà:ke was built on Mohawk ingenuity, resourcefulness and determination—a perfect example of what has Canada's Governor General referred to in her 2019 Throne Speech as "Indigenous genius"¹⁵.

Author Details

Murray Marshall has been a practising Canadian lawyer for more than 33 years and is, or has been, a member of the bars of Alberta, Québec and Ontario. Mr. Marshall's practice has always focused on issues of concern to aboriginal peoples. In the 1990's, Mr. Marshall established and managed the Legal Services department of the Mohawk Council of Kahnawà:ke and drafted a number of important pieces of legislation, including: the *Kahnawà:ke Gaming Law*. Mr. Marshall has spoken at numerous aboriginal and gaming conferences in various parts of the world and authored articles and papers for a variety of publications.

¹⁵ <https://www.ourcommons.ca/DocumentViewer/en/43-1/house/sitting-1/hansard>



Commentary: Building Bridges: A Reflection on the Need to Decolonize Gambling Studies

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Abstract: This article is a commentary by Sylvia Kairouz, Ph.D., written for the Critical Indigenous Gambling Studies special issue of *Critical Gambling Studies*.

Immersed in my thoughts, I barely heard the phone ringing on this quiet Wednesday afternoon. In an unusual gesture, I picked up the phone to an unexpected conversation with a sympathetic person from Kahnawà:ke. This very first encounter was pleasantly affable, and we agreed to plan for a longer conversation about our shared interests in the gambling field. This fortuitous encounter was a turning point in my career trajectory as a gambling scholar. Unfolding into many other conversations, formal and informal, several trips crossing the Mercier bridge to Kahnawà:ke, and a trustful and flourishing relationship with members of the community and institutions, we witnessed the birth of a fascinating research project.

When invited to write this commentary, I felt privileged to have this space to raise a critical reflection on the context of (de)colonization as well as on inherent issues of sovereignty, citizenship and social justice. I am honored to share this space with outstanding Indigenous scholars. Using my own story as a gambling researcher, I will share some reflections based on my own experiences and my inspiring encounters with the community of *Kahnawà:ke*. Speaking autoethnographically, I will engage my own reflexivity on the importance of developing a decolonizing methodological apparatus in research. I will also discuss the intersection of aspects of decolonization movements in public health and neoliberal economic and political trajectories of Canadian state formation. These neoliberal agendas and the data they produce implicate discourses that perpetuate the stigmatization and characterization of Indigenous peoples and communities as dependent on assistance from the settler state.

Decolonizing the Self

My work with the people of *Kahnawà:ke* has pushed me to question my own vision as a senior researcher, to deconstruct my formal academic heritage and its epistemologies, and to ontologically delve into the realms of subjectivities and lived experiences, my own and those shared by my research collaborators. From the perspective of a knowledge producer, I happily adopted the posture of a learner, of a listener working to better understand the history of a Nation, humbly hearing their narratives of trauma and grievances, and profoundly feeling the resilience of a community. I have experienced the privilege of being admitted as an outsider and I am grateful to them for accepting my own history, as an immigrant and a war survivor. After being offered a safe space to share traumatic and buried memories of a civil war, I could openly reflect on the experience of grief and the loss of a homeland. I engaged in this dialogue with the posture of a pluricultural scholar. I learned through my experience as an immigrant, to recognize my intellectual responsibility to situate my knowledge into the context, the history, and the sociocultural reality of Indigenous peoples.

I am deeply committed to participating in building new forms of knowledge that the people of *Kahnawà:ke* will edify. As an outsider, and as an immigrant within the settler-state, I was encouraged at the beginning of our relationship to reflect on the fundamental importance of working to decolonize my own thinking prior to any research collaboration that I might have with this community. To achieve this end, I had to deconstruct my own ways of doing research and build new modes of apprehending the reality of Indigenous peoples. I recognized that, as gambling scholars, most of the knowledge we have constructed about Indigenous peoples has perpetuated

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imperialism in the way research data is collected, analyzed, interpreted, and presented. As I moved away from a positivistic approach based on the quantification of a universal subject and a history written by the West, I began my role as a listener and an avid learner. I continually remind myself that I am walking down this road of inquiry with a biased knowledge of the gambling field that was carved out by processes of colonialism, by the rationalities of academia, and from my own trajectory. Educating myself through readings produced by Indigenous peoples, from poetry to sociology, has created a place in my repertoire of research 'know how' to open my mind to decolonizing methodologies. I wanted to move away from discourses about Indigenous gambling reality, that are deeply embedded in colonial ideologies and practices and supported by related institutions, bureaucracies, and scholarship. To do so, I needed to recreate a mindset that is respectful of Indigenous communities, their traditions, values, knowledges, and specific contexts alike. I was guided by the vision Edward Said (2003) expressed in his work *Orientalism* "The more one is able to leave one's cultural home, the more easily is one able to judge it, and the whole world as well, with the spiritual detachment and generosity necessary for true vision" (p. 259).

Decolonizing Research

I argue that prevailing gambling research epistemologies are embedded in doctrines and research methodologies associated with a political and socio-cultural imagination of the 'West' (Said, 2003). They are largely developed in the tradition of academia and disciplinary frameworks of positivistic doctrine and empiricism, and reflect limited visions, ideologies, and methods of inquiry. A sophisticated methodological apparatus complements the investment of much academic gambling research in the edification and validation of complex systems of quantification to monitor risk, harm and pathology among people, communities, and populations. A view of gambling as a risky endeavor and a disease has contributed to the construction of the vulnerable and the sick, including what Kelm (1998) defined as the Indigenous ill. Public health surveillance systems as described by O'Neil (1993), perform disciplinary and regulatory functions that go beyond their purpose of tracking health conditions. This has created, in turn, new forms of language, techniques and quantification methods based on a restrictive set of values, morality and subjectivities. It also neglects the diversity of ways in which gambling is imagined and practiced and the meanings it confers in different settings. I contend that gambling studies has sustained what Linda Tuhiwai Smith (1999) defines as a positional superiority of Western knowledge, reproducing a colonizing structure of power and silencing cultural experiences and imaginaries of the 'other'.

The economic and political trajectories of Canadian state formation along with aspects of decolonization movements in public health impact gambling harm prevention in several ways. While neoliberal ideologies in gambling prevention can be instrumental in securing political support for prevention initiatives, these agendas are often enacted in a way that can be problematic for advancing the well-being of gamblers and communities. These agendas and the data they produce rely significantly on a productivist construction of citizenship that may propagate a negative representation of the gambler, and a stigma towards Indigenous peoples and communities as being dependent on a settler state.

Shaping the public health discourse along the risk and pathology continuum and systems of classification and representation is a constructed form of knowledge that sustains relations of power and domination, with detrimental consequences for peoples whose lands have been occupied by colonial powers. Although harm reduction frameworks recognize the multilayered determinants of gambling, from cell to society, they are underpinned by a Western cultural orientation to gambling, and a neoliberal conceptualization of harm, prevention, and pathology that supports settler political interests. By collectivizing experiences of gambling harm with reference to relative vulnerability, these orientations marginalize several populations and groups, namely Indigenous peoples, women, and other minority groups, negating their own views, their history, and their cultures of gambling and healing.

Critical studies have made some headway in uplifting alternative modes of knowing, delving into qualitative analysis of the lived experiences of gamblers, the living conditions of communities, their history, and imaginaries. Still, the continued process of decolonizing methodologies in gambling studies continues to be an essential endeavor. In her book, Smith conceptualizes the challenges for engaging in decolonizing practices while reimagining and bringing forward Indigenous epistemic approaches, philosophies, and methodologies. As stated by Reith and Dobbie (2014) "different types of research inquiry are productive of different types of knowledge and different kinds of research subject" (p. 28). Gambling studies are tainted by the colonial heritage in research generally and in the gambling field specifically. In the spirit of Truth and Reconciliation movements, it is time for gambling research to reflect on new frameworks in which the voice of Indigenous stories, methods of data gathering, and imaginaries will be an integral part of knowledge construction and reproduction. Furthermore, as described by Smith (1999), the research agenda should unfold along "a program and a set of approaches that are situated within the decolonization politics of Indigenous peoples' movement... connecting local, regional and global

efforts which are moving towards the ideal of a self-determining Indigenous world" (p. 115) focusing on the goal of achieving social justice. An Indigenous research agenda can be sustained through processes of decolonization, transformation, mobilization, healing, and embedded in practices and methodologies. A crucial step towards achieving this goal is the building of capacity and empowerment of Indigenous students and young scholars. It is of great importance to create spaces for conversation and collaborations between inside and outside scholars, to meet and rally with what Kovach (2009) described as the burgeoning Indigenous research movement. This will contribute towards the transformation of the academy to generate diverse epistemological and methodological approaches to urgent issues. This special issue is a commendable, emblematic, and promising initiative that will advance gambling research in this direction.

Decolonizing the Gambling Landscape

The criminal code of Canada gave the authority for the provinces to "manage and conduct" gambling offerings. State monopolies are the sole operators deemed legal in the province of Québec. Indigenous Nations in the province, therefore, are not recognized as the legal operators of gambling on their own land. Indeed, the reflection on decolonizing gambling research is needed but it must be done alongside a critical conversation about the larger sociopolitical and legal context in which gambling unfolds. This should involve critical reflection on the current state of colonization and support of Indigenous assertions of sovereignty, the right for self-determination, and social justice. These matters remain unresolved, and, as this special issue illustrates, gambling studies scholars have an important role to play in this larger reflection. Contributors to this special issue have offered valued knowledge on the cultural and historical embeddedness of gambling within Native North America. They have reminded us of the ongoing struggle of Indigenous Peoples to strengthen their sovereignty in a context of colonial systems of gambling governance. They have also provided a refined analysis of how Indigenous-provincial gambling revenue agreements entrap Indigenous Peoples within neoliberal structures and perpetuate the political and economic heritage of settler-colonial society. This duly raises the need for insider gambling scholars to empower research epistemologies and generate knowledge to support strategies for interventions, especially among Indigenous youth.

Driving back from Kahnawà:ke, I contemplated at distance the sight of the City of Montreal at Golden hours. This peaceful view clashed with my feelings of rage and a slight hope. I felt myself heading back to my colonizing community with the rage of keeping my voice silent as a gambling researcher but also as a citizen of the

colonizing society. While crossing the Mercier Bridge, I suddenly started thinking over the emblematic meaning of the expression "to build bridges", simply defined in the English dictionary as to establish a relationship, to foster understanding and appreciation of cultural differences. I decided to adopt that motto in my own research with the people of Kahnawà:ke as one step towards decolonizing my thoughts and my research.

References

- Kelm, M.E. (1998). *Colonizing bodies: Aboriginal health and healing in British Columbia, 1900-50*. UBC Press.
- Kovach, M. (2009). *Indigenous methodologies. Characteristics, conversations, and context*. University of Toronto Press Inc.
- O'Neil, J. (1993). *Aboriginal health policy for the next century*. (Discussion paper). In Royal Commission on Aboriginal Peoples, *The path to healing: Report of the national round table on Aboriginal health and social issues* (pp. 27-48). Minister of Supply and Services Canada. Available at <https://www.bac-lac.gc.ca/eng/discover/aboriginal-heritage/royal-commission-aboriginal-peoples/Pages/item.aspx?ldNumber=508>
- Reith, G., and Dobbie, F. (2014), The socio-temporal dynamics of gambling. Narratives of change over time. In R. Cassidy, R., A. Pisac, & C. Loussouarn (Eds.), *Qualitative research in gambling: Exploring the production and consumption of risk* (Chapter 2). Routledge. <https://doi.org/10.4324/9780203718872>
- Said, E.W. (2003). *Orientalism*. Penguin Modern Classics. Penguin Classics.
- Smith, L.T. (1999). *Decolonizing methodologies: research and Indigenous peoples*. Zed Books, University of Otago Press. (Distributed in the USA exclusively by St Martin's Press.)

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Book Review

Sulkunen, P., Babor, T., Cisneros Örnberg, J., Egerer, M., Hellman, M., Livingstone, C., Marionneau, V., Nikkinen, J., Orford, J., Room, R. & Rossow, I. (2019). *Setting Limits: Gambling, Sciences and Public Policy*. Oxford University Press. 232 pp. £36.99UK. ISBN: 9780198817321 (paperback).

Setting Limits, authored by an international group of experts, provides a comprehensive review of research on worldwide gambling trends, industry strategies, regulation and related consequences on society. This multidisciplinary book is intended for policy-makers and to foster evidence-based ways of 'setting limits' on gambling operations, supported by numerous tables, charts and diagrams. Most of the figures are included in chapters three to seven, and support relatively well the authors' arguments by providing the reader, for example, a glimpse of the growing availability of gambling products over time or a summary of impact studies of increased/reduced availability of gambling in different countries. The originality of *Setting Limits* lies in its exhaustive overview of gambling research – epidemiological, social, economic and policy research evidence are addressed – and in its public interest perspective. The latter is concerned with harm in populations, and does not focus on the individuals. The involvement of commercial actors and other beneficiaries of gambling revenue in policy-making is attended to, as they bear a great responsibility for the prevalence of problem gambling. The authors complete this compendium with three main conclusions. First, gambling's benign and malign outcomes go together. An increase in the gambling revenue would result in an increase of gambling-related harms. Implementing effective strategies to prevent excessive gambling would reduce gambling proceeds. Second, the distribution of gambling-related harms is skewed, as financial harms are more prevalent among low-income social groups and problem gambling concerns a very small population. Third, gambling problems tend to reinforce other vulnerabilities.

Chapters one through three provide a useful background for understanding the history of gambling and the rise of this industry over time. Chapter three is of particular interest as it describes the structures of the current global gambling sector. It points out the growing commercialization of gambling products, the globalization of the market, its rampant privatization and deregulation. Another characteristic has been the growing availability of

gambling products (e.g., electronic gambling machines or online gambling).

Chapters four through seven offer an extensive review of international research on gambling practices and problem gambling, with an emphasis on the influence of socio-economic background and gambling product availability on gambling-related harms. Chapters four and five point to the association between class, gambling expenditure and gambling-related harms, as well as the effects of problem gambling on family disruption, homelessness and personal bankruptcy. Chapters six and seven present a vast body of research that deals with the positive association between mean population gambling and extent of excessive gambling, lending empirical support to the validity of the total consumption model with regard to gambling.

Chapters eight through twelve provide evidence-based suggestions for public health professionals and policy-makers to implement effective measures to curb gambling-related problems. In chapter eight, much of the focus is on reviewing research on game inducement in electronic gambling machines (EGMs), casino, and online gambling environments, and on describing the effects of the corresponding regulation. Marketing, game features and venue characteristics are strategies that aim to increase corporate profit, but they can lead to a host of gambling problems. Research on policy levers suggests that policy measures must be comprehensive in order to be effective, and that one should bear in mind that curbing gambling-related issues will reduce gambling revenue.

Chapter nine underscores the inefficiency of most measures implemented by the gambling industry to prevent excessive gambling. The authors discuss research evidence on pre-commitment tools, as they are the most commonly applied 'responsible gambling' strategies, and make four suggestions to improve it. Chapter ten introduces the different types of gambling control regimes and control structures, and examines the effectiveness of gambling provisions allocation and the related dependencies that stem from each system. It also suggests that

policy-makers reflect on whether good causes and public services could not be funded through less harmful activities

In chapter eleven, existing research on the treatment of gambling-related issues is comprehensively reviewed. The chapter sets out an interesting summary of the effectiveness of such treatments, at both the individual and population levels. It is concluded that gambling disorder is treatable, notably by cognitive behaviour therapy or other brief treatments. However, in most countries treatment for gambling problems remains scant or merely a pious wish.

Chapter twelve summarizes the main conclusions of the book. The liberalization of gambling took root in the advent of neoliberal policies across the world since the late 1980s. This process has resulted in the ubiquity of gambling products and of commercially driven objectives, at the expense of harm prevention. The authors conclude that there is a need for enhanced global governance, and they suggest 13 evidence-based recommendations to policy-makers on how to reduce gambling-related harms.

Setting Limits covers a broad spectrum of themes concerning gambling and problem gambling by drawing upon a careful scrutiny of existing research. The effects of gambling on inequalities are thoroughly reviewed, and the book places great emphasis on corporate responsibility and ineffective social policy in the development of problem gambling. Thus, *Setting Limits'* approach to gambling is in line with the concept of commercial determinants of health (e.g., Kickbusch et al., 2016; Knai et al., 2018), defined as 'strategies and approaches used by the private sector to promote products and choices that are detrimental to health' (Kickbusch et al., 2016), which argues that non-communicable diseases are mostly 'conceptualized in terms of individual-level risk factors' (Knai et al., 2018, p. 478), and puts a focus instead on corporate actors and system-level analysis. This is in keeping with research on commercial determinants of harms in gambling (e.g., Wardle et al., 2019; Livingstone & Rintoul, 2020; McCarthy et al., 2021), which aims at understanding how commercial determinants (e.g., accessibility of gambling products, exposure to advertising and promotions) might influence gambling behaviours and gambling-related issues. One of *Setting Limits'* greatest contributions is that it provides a comprehensive review of existing literature dealing with the commercial structures of gambling embeddedness and its effects on levels of gambling and problem gambling. In particular, chapters seven and eight give a convincing example of how, e.g., product and venue designs or large-scale changes in availability can have considerable consequences on gambling consumption and gambling-related harms.

I have only two comments to make on this stimulating collective work. As gambling policies and

market trends change very quickly, the book would need some more recent data. It contains figures that include projections for 2019-2022, notably with regard to the share of online gambling in Europe and in the world, and it could not account for the marked rise of online gambling prevalence globally since 2020 due to the COVID-19 pandemic. It would also benefit from an extension of the scope of the review to South American and African continents, which are considered by the industry as the future of gambling markets (especially the latter, see Reith et al., 2019). To conclude, this policy-oriented book is of particular interest to policy-makers, public health professionals and gambling experts. Yet, the clarity of the text and the significance of the addressed topics make this book an easy read even to the layperson. It is highly recommended for anyone with an interest in gambling or in public health.

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References

- Kickbusch, I., Allen, L., & Franz, C. (2016). The commercial determinants of health. *The Lancet Global Health*, 4, 895-896. [https://doi.org/10.1016/S2214-109X\(16\)30217-0](https://doi.org/10.1016/S2214-109X(16)30217-0).
- Knai, C., Petticrew, M., Mays, N., Capewell, S., Cassidy, R., Cummins, S., Eastmure, E., Fafard, P., Hawkins, B., Jensen, J. D., Katikireddi, S. V., Mwatsama, M., Orford, J. & Weishaar, H. (2018). Systems thinking as a framework for analyzing commercial determinants of health. *The Milbank Quarterly*, 96(3), 472-498. <https://doi.org/10.1111/1468-0009.12339>.
- Livingstone, C., & Rintoul, A. (2020). Moving on from responsible gambling: A new discourse is needed to prevent and minimise harm from gambling. *Public Health*, 184, 107-112. <https://doi.org/10.1016/j.puhe.2020.03.018>.
- McCarthy, S., Pitt, H., Bellringer, M. E., & Thomas, S. L. (2021). Electronic gambling machine harm in older women: A public health determinants perspective. *Addiction Research & Theory*. Advance online publication. <https://doi.org/10.1080/16066359.2021.1906864>.
- Reith, G., Wardle, H., & Gilmore, I. (2019). Gambling harm: A global problem requiring global solutions. *The Lancet*, 394(10205), 1212-1214. [https://doi.org/10.1016/S0140-6736\(19\)31991-9](https://doi.org/10.1016/S0140-6736(19)31991-9).
- Wardle, H., Reith, G., Langham, E., & Rogers, R. D. (2019). Gambling and public health: We need policy action to prevent harm. *British Medical Journal*, 365. <https://doi.org/10.1136/bmj.l1807>.

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Sébastien Berret is conducting a PhD in sociology at the University of Helsinki. His thesis investigates how the gambling surplus efficiency depends on gambling suppliers' cost structure and the institutional context, and how it might affect gambling-related harms. His research interest focuses mainly on the political economy of gambling and the prevention of gambling harms. He has been involved in several projects centered on comparisons of gambling policies and gambling providers in Europe.