

To Study about the Growth of Native American Gaming Industry

Kadivala Saalim Soyab Shafiq

Researcher, BMS Department

Shri L.P. Raval College of Mass Media & Management Studies, Mira-Bhayander, Maharashtra, India

Abstract: *In the late 1970s, several Indian tribes established bingo operations to raise revenues to fund tribal governments. In 1987, in California v. Cabazon Band of Mission Indians, the U.S. Supreme Court upheld one of the most significant turning points for tribal governments: the legal right of Native American tribes to offer gaming on reservation lands, free of state interference. By 2001, gaming had become one of the fastest-growing sectors of the U.S. tourism industry. As of 2008, Indian gaming revenues topped \$26.7 billion.*

The last few years have seen tremendous growth in the gaming industry, both in the number of new facilities opening and in gross revenues those facilities are earning. As of 2018, Indian gaming revenues topped \$33.7 billion, with 252 tribal governments conducting multiple gaming operations, for an average revenue growth per year of 2.4 percent. However, 2020, because of COVID 2019, has seen an overall economic downturn.

The tribal gaming industry will continue to lead the way on gaming technology and innovation. Emerging platforms will allow tribes to increase their market base. In fact, Native American gaming is considered one of the top industries in this country.

Indian gaming is no longer in its infancy. As such, Indian tribes will face new competition and additional challenges as state-sanctioned casinos continue to spread. Given that gambling is an accepted form of entertainment, it is likely that tribal gaming will continue to be an important part of the American economy

Keywords: Compacts, Indian, Indian gaming, Indian tribes, Native American gaming, Native Americans, tribal gaming

I. INTRODUCTION

Although this study embodies a general inquiry—a descriptive review—about the growth of the Native American gaming industry and possibilities the future may hold for America’s indigenous people, it is not an exhaustive scholarly research project.

Tribal betting is different from other forms of gaming. It is conducted by Native American (sovereign) governments to carry out their natural self-governing rights as independent nations. As such, three formal classes of gaming have been established:

Class I gaming includes social games for prizes of minimal value and traditional forms of tribal gaming as a part of or in connection with tribal ceremonies or celebrations (e.g., contests and games of skill). Because no money is exchanged here, Class I gaming is regulated solely by the tribes.

Class II betting includes bingo, other games similar to bingo (e.g., pull-tabs, lotto, punch boards, tip jars, instant bingo) if conducted at the same location, and certain non-house-banked card games allowed in a state (i.e., poker; note: “nonbanking” refers to poker and other card games in which players bet against each other rather than against the house). The use of technological aids in conducting such games is permitted. Subject to certain conditions set forth in the IGRA and some oversight by the National Indian Gaming Commission, Class II gaming is also regulated by tribes.

Class III gambling includes all other types of gaming not considered to be Class I or Class II, including slot machines, other video and electronic games of chance, craps, roulette, pari-mutuel wagering, and house-banked card games such as blackjack. Class III gaming is governed by tribal-state compacts (Meister, 2017a).

Since 1832 the U.S. Supreme Court has upheld the right of Native American tribes to self-rule, allowing them to control everything from fishing, hunting, and mineral rights to the establishment of gaming casinos.

Regarding the factors that drove Native Americans into gaming, in the 1960s no states ran lotteries, and only one, Nevada, allowed casinos. The Indian tribes had yet to discover the potential of gaming, from bingo to glitzy casinos (Marrero, 2007). Beginning in the late 1970s, however, various Indian tribes established bingo operations with the aim of raising revenues to fund tribal governments. In 1987, in *California v. Cabazon Band of Mission Indians*, the U.S. Supreme Court upheld one of the most significant turning points for tribal governments: the legal right of Native American tribes to offer gaming on reservation lands, free of state interference (National Indian Gaming Association, 2007). In essence, the band argued that its status as a sovereign government prevented state interference in its affairs.

The Cabazon Band is a small tribe with reservation lands of 1,706 acres near Palm Springs, California. In the mid-1980s, like several other tribes across the United States, this band ran a modest bingo parlor and a poker room on its reservation. When California state officials threatened to shut down its gaming facilities, the band sued the state, and the case made it all the way to the U.S. Supreme Court. The Supreme Court held that because California permitted gambling and even encouraged it through the state's lottery, its law regulated rather than prohibited gambling. Accordingly, the state could not enforce its gambling laws so as to regulate the tribe's gaming operations. This verdict kicked the door to Indian gaming wide open (Light, 2007).

1.1 OBJECTIVE

In an effort to provide a regulatory framework for Indian gaming, Congress passed the Indian Gaming Regulatory Act (IGRA) in 1988. The IGRA provides a statutory basis for the regulation of Native American gaming, specifying several mechanisms and procedures and requiring that all the revenues from gaming activities be used to promote the economic development and welfare of these tribes. For casino gaming, which IGRA terms Class III gaming, the legislation requires tribes negotiate a compact with their respective states, a provision that has been a continuing source of controversy between the tribes and state and local governments (National Indian Gaming Association, 2019).

Indian gaming is an economic development strategy that has provided tribal governments with the necessary funds to run their own administrative programs (Spilde, 2000). Because of this, at least in part, from a total revenue standpoint, tribal gaming is a Native American success story. The Indian Gaming Regulatory Act of 1988 states that Indian tribes shall use revenues from gaming for five general purposes: 1. To fund tribal government operations and programs; 2. To promote the general welfare of tribes; 3. To promote tribal economic development; 4. To make charitable donations; 5. To help fund local government agencies (National Indian Gaming Commission, 2009).

Since the passage of IGRA, tribal gambling revenues consistently have grown at a faster rate than commercial gambling revenues, in large part because a relatively small number of the Indian gambling facilities opened in densely populated markets that previously had little, if any, legalized gambling. This trend has continued. For example, from 1996 to 1997, tribal gambling revenues increased by 16.5 percent, whereas commercial gambling revenues increased by 4.8 percent. The growth rates for both, however, have shown signs of slowing over the same period. There is a degree of economic concentration in a relatively small number of gaming tribes. The 20 largest revenue generators in Indian gaming account for 50.5 percent of the total revenue; the next 85 account for 41.2 percent. As was IGRA's intention, gambling revenues have proven to be an important source of funding for many tribal governments, providing much-needed improvements in the health, education, and welfare of Native Americans on reservations across the United States. Nevertheless, Indian gambling has not been a panacea for the many economic and social problems that Native Americans continue to face (Native American Tribal Gaming, 2019).

What can we say about the evolution of the Native American gaming industry? To evaluate the factors of the industry's growth, we must first review what happened between 1988 and 2008.

II. REVIEW OF LITERATURE

First, the Indian Gaming Regulatory Act (IGRA) was enacted by the United States Congress on October 17, 1988, to regulate the conduct of gaming on Indian Lands. IGRA establishes the National Indian Gaming Commission and the regulatory structure for Indian gaming in the United States.

Second, IGRA provided a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. It also provided a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players. And, it provided the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.

In 1995, prior to the explosive development of Native American gaming, some tribal leaders were cautious or even skeptical about the impact such development would have on the Indian community. Most leaders had expressed both professional and personal concerns about the impact that gaming expansion would have on the quality of life for tribal members. In 1988, 70 Indian reservations, or about 12 percent of the total number of Indian reservations, in 16 states were generating more than \$100 million from nonbanking card games such as poker to satellite bingo parlors and such highly visible gaming ventures as full-service casinos, just as states had done with lotteries decades earlier (Pace, 2005). By 2000, fears of the negative effects on the Indian way of life were no longer as apparent. Tribal leaders became more positive about the addition of gaming to the community (Janes&Collison, 2004). By 2001, gaming had become one of the fastest-growing sectors of the U.S. tourism industry, with \$63.3 billion wagered in casinos, lotteries, racetracks, and bingo halls. Some \$12.8 billion of that amount was spent within Native American casinos, nearly doubling the \$7.4 billion generated in 1997 (Piner&Paradis, 2004). Between 2002 and 2005 tribal gaming achieved what no other antipoverty program had been able to accomplish in reversing the cycle of displacement and impoverishment of Native Americans: tribal gaming has been hailed as the “new buffalo” for Indians and has been credited with wresting once-destitute reservations from the grip of poverty, unemployment, and welfare dependency (Gonzales, 2003). In 2004, tribal gaming operators in six states were generating the following gross revenues: California, \$4.7 billion; Connecticut, \$2 billion; Minnesota, \$1.4 billion; Arizona, \$1.2 billion; Wisconsin, \$1 billion; and Michigan, \$870 million. This comprised about 57 percent of the gross tribal gaming revenues for that year (Zelio, 2005).

By 2005, the growth of Indian gaming was even more impressive compared to other segments of the casino gambling industry. In fact, tribal gaming grew at more than three times the rate of the non-Native American gaming casino segment, with revenues topping \$22.6 billion (Meister, 2017a).

Casino growth on a national level has occurred most significantly in Native American communities (Wisconsin Policy Research Institute, 1995). One of the main reasons for this is that tribal communities self-govern—because of their sovereignty—without the influence of state governments. As of 2006, because of their ability to self-govern, gaming tribes operated in 28 states: Alaska, Arizona, California, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, Wisconsin, and Wyoming. Four of these states, California, Connecticut, Florida, and New York, experienced major growth in tribal gaming (Froelich,Schaller, &Klaczek, 2007).

As a side note, sovereignty, the exclusive right to exercise supreme authority over a geographic region, is the source of much controversy when applied to Native American tribes, despite their centuries-old legal status as independent nations. Further, mention casinos as an outgrowth or privilege of Indian sovereignty and the hostility certainly heats up (Light & Rand, 2005, p. 79).

By 2006, of the 562 federally recognized Indian tribes, a total of 226 tribes, or about 40 percent, in 28 states were engaged in some form of gaming (Froelich,et al., 2007). In 2007, even amidst a struggling economy, gambling revenue at Indian gaming facilities grew at a modest pace of 5 percent over 2006 (Research & Markets, 2009). Also, in 2007, in Oklahoma, the state with the most gaming facilities, tribal casino revenue jumped 22.3 percent (Meister, 2008).

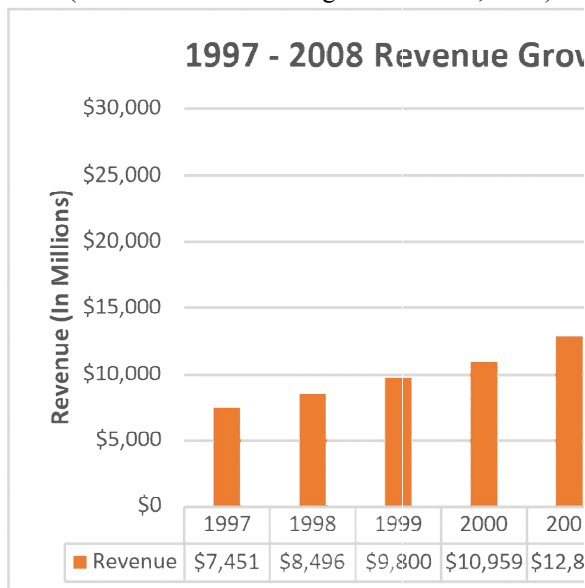
What is more, in 2006, Congress introduced legislation to protect their own casino interests from those tribes that are outside reservation. Further, the Bureau of Indian

Affairs (BIA) had faced increasing pressure to tighten regulatory policy and oversight of casino approvals. In particular, the BIA had been instructed by Congress to implement new procedures after two decades of IGRA's existence. These procedures would allow local communities to have more influence in the siting of casinos in their

community and would make the process of casino approval more transparent. To many tribes, however, the proposed regulations would further encroach on tribal sovereignty (Oversight Hearing on the Implementation of the Indian Gaming Regulatory Act, 2001, pp. 107-166).

III. RESEARCH ANALYSIS, FINDINGS AND TERMINOLOGY

As of 2008, 233 Indian tribes, including two Alaska Native villages (i.e., Tlingit and Haida Tribes), operated 411 casinos, bingo halls, and pull-tab operations spread throughout 28 states, creating more than 636,000 jobs: 284,000 in direct Indian gaming, 102,000 in indirect Indian gaming, and 208,000 in Indian gaming and government projects (National Indian Gaming Commission, 2009). As shown in Figure 1.0, Indian gaming revenues topped \$26.7 billion. To say the least, this compares favorably to revenues of \$7.4 billion 12 years earlier—a phenomenal growth of 259 percent (National Indian Gaming Commission, 2009).



Even with the progress of tribal gaming, more than two thirds of Native American tribes do not participate in gaming at all. Some tribes, such as the Navajo Nation, with lands in Arizona, Utah, and New Mexico (i.e., over 17.5 million acres), rejected Indian gaming for a long time, including in referenda. However, in a 2006 statement Navajo Nation president Joe Shirley Jr. affirmed: If everything falls into place, we will see our first casino in short order (Helms, 2006). Finally, in 2008, after much debate, the Navajo Nation finally approved its first casino, offering slot machines, a bingo hall, and table games such as blackjack and poker. It is called Fire Rock Navajo Casino and is located just east of Gallup (i.e., in the town of Church Rock), New Mexico, along Interstate 40 (Giago, 2008). The casino has surprised everyone in terms of the actual revenue it is producing. In fact, it is doing so well that the Navajo Gaming Enterprise is hoping to build three more casinos as soon as possible (Gallop Independent, 2009).

Other tribal governments are engaged in policy debates over whether or not to permit gaming and related commercial developments on their reservations (Pully, 1999).

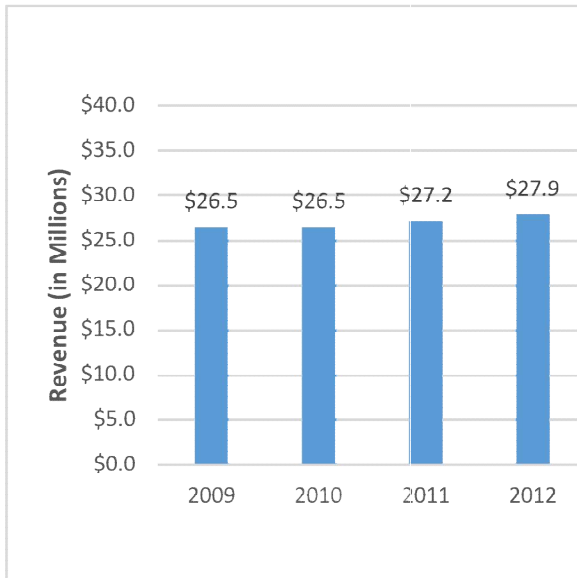
IV. CONCLUSION

The National Indian Gaming Association (2019) provided the following information about the growth of Native American gaming: The total number of federally-recognized Indian tribes is 562. This is the same as in the previous 20 years (1988-2008). The total number of tribal governments engaged in gaming (Class II or Class III): 224. This is down by 9 from the previous 20 years. The total number of tribal governmental gaming operations is 354 (several tribes operate more than one facility). This is down by 57 from the previous 20 years in which there were 411 operations. The total number of states with tribal governmental gaming is 28 (i.e., Class II or Class III). This is the same as in the previous period. The total number of jobs is about 400,000. The national percentage of Indian to non-

Indian employees is 75 percent non Indian and 25 percent Indian. In areas of high unemployment such as North and South Dakota, 80 percent of Tribal governmental gaming employees are Indian.

With regards to revenues, as shown in Figure 2.0, as of 2018, Native American gaming revenues topped \$33.7 billion. This compares favorably to revenues of \$26.7 billion 10 years earlier (2009)—a growth rate of 27.1 percent, for an average revenue growth per year of 2.4 percent. Although this progression, in percentage terms, is significantly lower than in the previous 12year period (1997-2008), it still shows that Indian gaming is exhibiting positive and sustainable growth.

By comparison, the Las Vegas Strip (i.e., a stretch of South Las Vegas Boulevard in Clark County, Nevada, that is known for its concentration of resort hotels and casinos), in 2017, had revenue of \$17.8 billion dollars for rooms, food, beverages, and gaming combined, with gaming revenue accounting for \$6 billion (Sheldon, 2018). However, 2020, because of COVID 2019, has seen an overall economic downturn.



2009-2018 Revenue Growth in Native American Gaming