

# Constraints to the Growth of Native American Gaming

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## Abstract

Since the Indian Gaming Regulatory Act was passed in 1988, high-stakes bingo halls and casino operations have spread to reservations across the country and generated millions of dollars in revenues for their respective tribes. While some tribes have been able to exploit their sovereign status and establish high-stakes bingo parlors and casinos on reservations across the country, this study describes how external and internal constraints limit the adoption of gaming ventures by other tribes. Constraints include the location of the reser-

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vations, increasing competition, disagreements among tribal members, and opposition from the private and public sectors. **KEY WORDS:** *Native American gaming, constraints.*

## Introduction

Over the last decade Native American high-stakes bingo halls and casinos have spread across the United States and for some tribes generated millions of dollars in revenues. Although the number of Native American gaming establishments increases monthly, gaming is not a viable option for all tribes. Less than 100 (about 20 percent) of the 550 federally recognized tribes operate high stakes gaming businesses (Mezey, 1996). Financial success is often dependent on geography, a lack of competition, amiable relationships with local and state governments, and support from tribal members. The purpose of this paper is to identify the barriers to the continued growth of Native American gaming in the United States.

## Geography

The geography of reservations is a key element in the growth, distribution, and economic success of Native American gaming in the United States. Legally tribes can only establish gambling operations on trust lands, but reservations tend to be isolated in rural regions, far from densely populated areas of the country. Successful gaming ventures require proximity to large customer bases or sites near areas with large visitor volumes where gambling is not permitted (Roehl, 1994). These are characteristics most Native American lands lack. Approximately 85 percent of the reservations are found in states west of the Mississippi River, while in the heavily populated East, fourteen states have no federal or state reservations at all (Snipp, 1989; Waldman, 1985). Although Arizona, California, New Mexico, Nevada, and Washington each contain more than 20 reservations, only four eastern states, Florida, Maine, Mississippi, and New York, have more than one reservation within their respective jurisdictions. In essence, many potentially lucrative sites across the country will never have Native American gaming.

The distance from the reservations to neighboring cities is also a barrier to economic success and limits the number of people willing to travel to Native American casinos. The mean distance from a reservation to the nearest metropolitan area is 72 miles. For the large reservations--those greater than 1,000 square miles--the mean distance is 140 miles. Guests at Native American casinos tend to be "day trippers"; in other words, the success of these operations depends on the patronage of local residents who travel from their homes to the casinos, spend a few hours gambling, and then return home. Fewer people living nearby translates into fewer potential customers. Native American casinos are typically not destination resorts. People do not travel hundreds of miles to gamble at these casinos, nor do they spend their annual vacations there. Most tribes will never be able to compete with the inexpensive food and lodging, theme parks, golf courses, night club acts, and other entertainment opportunities found in Las Vegas or Atlantic City. In short, without access to customers, success and profitability become problematic, and it is difficult for many tribes to prosper from gaming under those circumstances.

**Since 1988, competition for the public's gaming dollars have increased dramatically, and the locations of many reservations place them at a significant disadvantage.**

## Competition

In many respects, the early financial success of Native American gaming can be attributed to a lack of competition. Before the late 1980s there were few places in the United States where people could legally gamble in casinos. Some states operated lotteries and some permitted parimutuel betting, but casino gaming was legal in only Nevada and Atlantic City. After the passage of the Indian Gaming Regulatory Act (IGRA) in 1988, tribes began establishing gaming operations in states across the country. The early financial success of some tribes encouraged

other tribes to develop gaming facilities, and each year more tribes have started gaming enterprises. In the 1990s, Native American casinos are concentrated in several regions: the upper Midwest (the Dakotas, Minnesota, and Wisconsin), the Pacific Coast (California, Oregon, and Washington), and the Southwest (Arizona and New Mexico). However, some of the most profitable operations are far from competitors. For example, the Pequot tribe in Connecticut operates the Foxwoods High Stakes Bingo and Casino, considered the most profitable casino in the world with gross receipts estimated at close to \$1 billion dollars ("Foxwoods," 1996). Its location between Boston and New York City provides a customer base of millions of people, with little direct competition.

Although Native American gaming has often prospered in regions where few, if any, other types of gaming opportunities existed before, this advantage is rapidly disappearing. A major constraint to the health of Native American gaming may be the very success of tribes like the Pequots and Seminoles. There is a current danger that the gaming market is becoming saturated as Native Americans build more casinos and bingo halls. Tribes are limited to certain locations, and animosities are beginning to surface as more and more tribes compete for a share of the market (Cozzetto, 1995).

Economic success from gaming is relative. Only two dozen tribes are generating any real wealth from gaming, and just 10 casinos account for one-half of tribal gross gaming revenues (Connor, 1996). Many tribes lack the location, resources, financing, and expertise to run successful operations. Native Americans living on reservations are the poorest people in the United States, and tribes often have difficulties raising venture capital (Cozzetto, 1995). Banks have been hesitant to lend money to tribes that have little collateral and are seeking to finance a business as inherently risky as gaming. To get over this barrier tribes have been forced to use non-traditional methods of financing or to go into partnership with private gaming companies. Mismanagement has also been a problem for some tribes. One government report states that between 1988 and 1992, \$12.4 million in gaming revenues was lost to mismanagement, fraud, and embezzlement (Oleck, 1993). To avoid these types of problems, some tribes have hired outside consultants and management groups to run the day-to-day operations. This can be an expensive approach because such companies charge up to 40 percent of the gross revenues, a serious blow to the profit margin.

The real competition is not necessarily from other tribes but from states, cities, and private industry. While the number of dollars gambled on Native American reservations have increased steadily over the years, gross revenues earned on reservations account for only about 7.5 percent of the total gaming revenues in the United States (Christiansen, 1994). The rapid growth of gaming across the country supports the contention that Americans today are more accepting of gambling and perceive it as legitimate middle class entertainment (Mezey, 1996; Rose, 1996). In the 1990s, 48 states allow some form of gambling within their jurisdictions; the two exceptions are Hawaii and Utah. People can play lotteries in 37 states (McQueen, 1996; Thompson, Pinney, & Schibrowsky 1996). Over half of the states allow casino gaming--ten of them in non-Indian establishments (Mezey, 1996; Thompson et al., 1996). Riverboat gaming has expanded and is available in six states: Illinois, Indiana, Iowa, Louisiana, Mississippi, and Missouri (Doocey, 1995). In Nevada casino gaming is so well established that tribes do not have the financial capability to compete with Las Vegas or Reno. Since 1988, competition

for the public's gaming dollars have increased dramatically, and the locations of many reservations place them at a significant disadvantage. As McCulloch (1994) succinctly states, "If casinos open within major population centers, there will be no reason for gamblers to travel to Native American reservations" (p. 107).

## State and Local Opposition

Competition is not the only obstacle tribes must overcome in their quest for gaming profits. In a number of cases the greatest opposition comes from local jurisdictions and people living near the reservations. Concerns focus on the tax exempt status of Native American reservations, infrastructure and service costs, the association of gaming with crime and social problems, and the issue of state rights (Oleck, 1993; McCulloch, 1994; "Indian Gaming," 1995). Some residents and local officials are troubled by the negative financial impacts that gaming can have on their local communities. Gaming on reservations can lead to increased service demands, such as road improvements and police protection, that local governments finance without assistance from tribal governments. Businesses on reservations have a tax exempt status, so local jurisdictions receive no income from the tribes and the Native Americans get a "free ride." Others oppose gambling because they believe it increases criminal activities including theft, fraud, embezzlement, and attracts "undesirable" people to the area. Finally, people are concerned about negative social impacts such as compulsive gambling. In essence, they view gaming as just one more indicator of the social decay of American society.

Some tribes have found that state governments can be uncooperative and a hindrance to gaming development. The IGRA regulates Native American gaming operations in the United States. Neither the states nor the tribes are completely happy with the law. The act limits the amount of Native American sovereignty in the context of gaming on reservations, but it also restricts the amount of control states can exercise over gaming on Native American lands within their jurisdictions (Cashen & Dill, 1992). An important source of conflict between the two groups is associated with a clause in the IGRA that require states and tribes to enter into a compact (formal agreement) before a tribe can operate Class III gaming activities. Class III games include slot machines, the most profitable casino operation, and other games of chance commonly found in casinos. However, the requirement to negotiate a compact does not apply to Class II games. For instance, if bingo (a Class II game) is allowed in any form in the state, including charitable fund raisers, tribes can initiate high stakes bingo ventures without state approval.

While some states, like Connecticut and Arizona, have entered into compacts with local tribes, others states have prevented tribes from establishing casinos by refusing to negotiate a compact or delaying the bargaining process (Oleck,

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1993). States claim that their lack of regulatory power over Native American gaming infringes on their sovereign status and is one more example of how states' rights and powers are being eroded as the federal government assumes more and more power over local issues. Tribes have sued in federal court in an attempt to force the states to negotiate. In their defense, states have used the 10th Amendment, which reserves for states those rights not expressly given to the federal government, and the 11th Amendment, which protects state sovereign immunity and prevents states from being sued by tribes in federal court. At least three U.S. District Court cases, involving tribes in Alabama, Michigan, and Washington, have been dismissed on the basis of the 11th amendment (McCulloch, 1994). In a landmark case in 1996, the Supreme Court ruled that Congress does not have the authority to abrogate states rights--tribes cannot sue the state and force them to negotiate a compact (Idelson, 1996; Thompson et al., 1996). While some people believe this strengthened the states' positions, this may not be so. The disputes will not end with this ruling because the IGRA also stipulates that if a state and tribe cannot reach a compact, the Secretary of the Interior can determine under which conditions Class III gaming can be conducted on Native American land. The states have won a battle, but the war is far from over.

## **Internal Constraints**

The decision on whether to permit gaming on a reservation is often very difficult for tribal members. Not all Native Americans believe that gaming is an appropriate activity for their people to be participating in, and many discover that they are often unprepared for the changes casinos bring to their communities. Gaming opponents living on reservations cite the same criminal and social concerns that have traditionally made gaming anathema in other communities across the country. Some people believe that gaming attracts the wrong kinds of people, including petty thieves, unscrupulous investors, organized criminals, and con artists. Others are concerned with gaming's impact on local residents in terms of compulsive gambling and economic dependence for tribal members.

Another major concern for many Native Americans is the impact commercial gaming will have on their traditional cultures. These people view gaming as an enemy that threatens the sanctity of their lands, leads to a loss of privacy, incites tribal infighting, and will ultimately aid in the destruction of their heritage (Vallen, 1993). For instance, many citizens of the Cherokee Nation do not want to participate in casino operations because of religious and moral objections, even though the tribe operates bingo enterprises for "entertainment" (Holmstrom, 1993). In other cases it is a matter of pride. A member of the Kumeyaay Indian Campo band in Southern California said, "We don't want casinos and bingo because we don't want to be a playground for non-Indians. And we'd starve before we'd sell beads or pose for pictures" (Satchell, 1993, p. 25).

The public concern is so great in some situations that tribes have decided not to allow gaming development. In a 1994 election, the Navajo people rejected a proposition sponsoring casino gaming on their reservation. Even though gambling is a traditional part of their cultural heritage, many tribal members opposed commercial gaming because they believed it would lead to increased criminal behavior, destroy their culture, and create a generation of gambling addicts (Harvey,

1996). In 1995, the Hopi of Arizona also chose not to allow casino gaming on their reservation. In addition to cultural and religious objections, some opponents did not believe their tribal council would use gaming revenues to benefit all of the tribal members (Davidson, 1995). In the face of widespread unemployment, poverty, and a general lack of economic development on most reservations, the decision to forego gaming is a difficult and often divisive issue. In some extreme cases, internal disputes between tribal members have led to bloodshed and murder. In 1990, two men died in a fight between rival factions on the St. Regis Mohawk reservation in New York (Johansen, 1993; Lyons & Mohawk, 1994). In 1995, three individuals were killed and a fourth was wounded in a fight between members of the Seneca tribe on the Cattaraugus Indian reservation in New York (Kifner, 1995). In California, 10 people were shot and wounded in 1995 on the Pomo Indian reservation in a dispute between tribal factions over which group would control the casino business (Connor, 1995). While there are extenuating circumstances, part of each of these disputes was related to casino gaming.

## Conclusions

Native Americans living on reservations have the lowest standard of living of any group in the United States. Most of the reservations have no resources and lack many basic services that other Americans take for granted. Still, gaming is not the cure-all for Native American economic woes. While the gaming success of tribes like the Pequots and Seminoles is widely advertised, the fact remains that only 20 percent of the tribes in the United State operate gaming establishments, and even fewer have raised enough money to fundamentally change their economies. Many tribal gaming enterprises are small-scale, operate periodically, and measure their profits in thousands of dollars. Some struggle to make any profit at all, and others have even closed. Few tribes have the financial resources necessary to develop any kind of business, and most have found it difficult to attract investors.

Native American gaming faces an uncertain future. Many constraints will limit the ability of tribes to continue to expand and profit. Location will continue to be a major factor. Evidence suggests that the most successful tribes have profited by their proximity to large urban centers and a lack of competition. These are two characteristics most tribes do not enjoy. Because Native Americans can only operate gaming businesses on trust lands, the spatial pattern is almost exclusively linked to reservation locations. Competition increases every year. While a lack of competition was perhaps the most important factor in their early success, this advantage is rapidly disappearing as tribes, states, and cities continue to open competing operations across the country. There are even indications that the market is becoming saturated as more competition reduces the share of the gambling pie. Finally, tribes face opposition from a variety of other sources: Congress annually considers new legislation to limit gaming, some states refuse to negotiate with tribes, and tribal members must reconcile the need for economic development with the social and cultural costs associated with gaming. While Indian gaming will continue to grow, it will be interesting to see what the next decade has in store for the gaming industry.

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