

# ABORIGINAL GAMING IN CANADA: *A Literature Review and Suggestions for Research*

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## **Introduction**

Despite the fact that Native Studies as a discipline has for more than three decades been a fixture in many Canadian universities, the fact is there are many issues that affect Native people that have yet to be examined from a purely academic perspective. Reasons for this may vary from the issues emerging in need of research being methodologically formidable to too few principal investigators available to implement the required studies. One example that embodies the aforementioned difficulties that is in need of study is Aboriginal gaming. Described by some people in the United States as the 'new buffalo' (Lane, 1995), to date little attention has been paid to the Canadian situation with next to no literature produced about Aboriginal gaming in Canada. This is intriguing as one of Canada's largest casinos operates within the confines of the Mnjikaning Reserve in Ontario and compacts such as the one signed by the Federation of Saskatchewan Indians and the Saskatchewan Government, which directs of all Casino Regina gaming revenues to the province's First Nations, are slowly becoming reality (Saskatche-

wan Gaming Authority, 1998). While Aboriginal gaming is a recent exercise in Canada, possibly explaining why there exists such a poor selection of written material, reservation gaming in the United States has been in operation now for more than 15 years. Notwithstanding the differences in jurisdictional approach which have resulted in market saturation as well as both unprecedented growth and failure in certain cases in the United States, as more First Nations gravitate toward gaming it is important to consider the American reservation gaming experience as portions of the corresponding literature on gaming may inform First Nations leaders as to what the future of reserve gaming may hold.

## **Suggestions for Research**

Since most reserve communities are relatively small in size, any gaming activity will affect most reserve residents. And now that every provincial and territorial government in Canada sponsor gaming activities (McKay, 1997), multiple studies will be required on issues as diverse as how proximity to gaming establishments affects on-

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reserve problem gambling to how increased revenue sources can be utilized as a funding base for use in implementing self-governance. As is the case with most discussions centring on Native issues, whatever occurs on the reserve will have an effect upon the residents and gaming is no different. Not only does gaming have the power to alter all community institutions, its effects will ultimately extend to neighbouring communities. This paper identifies some important areas of research in relation to Aboriginal gaming in Canada. It argues that an increase in Aboriginal gaming is inevitable and that research is required to assure that the difficulties that accompany such endeavours are as painless as possible.

Simply put, there is a considerable amount of research required to provide a better understanding the effects of reserve gaming could have upon not only its constituents but also the surrounding communities' populations. Although Aboriginal gaming in Canada is in its infancy, it is apparent that this idea is gaining in popularity which will result in an expansion in the numbers of establishments Canada-wide. However, much of the reason for the lack of information on Aboriginal gaming in Canada to date has less to do with a lack of interest or desire, rather fundamental methodological barriers which limit the utility of this research are to blame. Realization of these limitations becomes increasingly important since First Nations are for the first time venturing into the gaming arena. As a result, all work produced will be instrumental in providing a foundation from which other researchers can expand upon and information that community leaders can draw from. And with provincial government's loosening the reins and allowing for greater First Nations input and control over gaming, research is needed on myriad issues, some of which are outlined below, to foster better cross-cultural understanding.

### Jurisdiction over Aboriginal Gaming

Gaming in Canada was federally controlled prior to 1985. An amendment to the Criminal Code of Canada effectively transferred control of gaming to the provinces, who continue to determine the extent of gaming within provincial boundaries. Interestingly, this jurisdiction is extended to reserve communities where a tension exists between section 91(24) of the British North America Act and Canada's responsibility for "Indians and lands reserved for Indians" and

that of gaming being recognized as a provincial responsibility. Accordingly, the federal government is responsible for reserves and the people who inhabit those reserves, meaning that theoretically the provinces should have little if any influence over Canada's Native population. In the face of perceived impropriety on the government's part, many Aboriginal leaders have stated that section 81 of the Indian Act provided for band "control and prohibition of public games" and "other amusements," and thereby sanctioned the establishment of reserve gaming, effectively subverting provincial jurisdiction. Responding to this claim, the federal government has denied this claim and maintains provincial regulation over gaming.

Although provincial consent is required to enact gaming guidelines at the reserve level is required, Native leaders later argued that if the federal government recognized the Aboriginal right "to control public games" through the inclusion of section 81, then gaming activities should be able to proceed and run by First Nations interests. In 1991 the Supreme Court of Canada concluded in *R. v. Furtney* that the provinces were simply asserting their Constitutional powers according to section 92 of the BNA Act of 1867. There is a jurisdictional tension here due to an obvious overlap in powers. A cursory examination of the issue indicates that the federal responsibility as delegated by section 91(24) of the BNA Act precedes any provincial control over gaming at the reserve level. There is a need to further clarify this issue due simply to the revenue being generated, research which could possibly lead to greater control by First Nations over reserve-based gaming.

In *R. v. Pamajewon*, First Nations argued that gaming was an Aboriginal right according to section 35(1) of the Constitution Act. It was contended that gambling had existed prior to extended European contact and was used for ceremony and celebration. In 1901, Stewart Culin reported to the Bureau of American Ethnology that in "general, games appeared to be played ceremonially, as pleasing to the gods, with the object of securing fertility, causing rain, giving and prolonging life, expelling demons or curing sickness." In *Pamajewon*, the appellants claimed the right to operate and regulate high-stakes gambling on reserves. The Supreme Court struck down this petition in 1996, articulating that gaming was in fact not an integral part of the distinctive cultures of the Shawanaga or Eagle

Lake First Nations, as such gaming is *not* an Aboriginal right and that on-reserve gaming facilities were not exempt from provincial legislation according to section 35(1) (Isaac, 1999: 526).

Internet gambling is another aspect of gaming that Native groups are currently engaged in trying to circumvent provincial jurisdiction through more inventive means. As of 1998 there were more than 200 gambling web sites throughout the world (Hogan, 1998), providing these operators access to gambling revenues worldwide. Where Internet gambling is permitted in the U.S. (Jordan, 2000: 456), such is not the case in Canada. In October 2000, for example, a group of five File Hills bands in northern Saskatchewan indicated their intention to open an Internet casino to attract gamblers from all over the world (Canadian Press, 2000). Despite the provincial government's ambiguous warnings that what they proposed may be illegal, the question of who governs the Internet in Canada is quite clear and should the File Hills bands have chosen to proceed they would have violated the Criminal Code on two accounts. First, only the provinces can authorize gaming; and second, Internet gambling is illegal. This provides a clear distinction regarding jurisdictional issues, although further legal confrontations are likely as those First Nations striving to open a gaming establishment seek to extend their perceived Aboriginal rights electronically.

### **Impetus for the "Morality of Gaming" Arguments**

Citing gaming as an addiction, opponents to Aboriginal gaming claim that building an economy upon a social pathology is morally reprehensible. At the same time, the latest statistics demonstrate that each provincial and territorial government in addition to the federal government utilize a significant portion of the revenues generated in games of chance to fund their day to day operations (Statistics Canada, 2000). In Ontario alone, 20 per cent of Rama's gross revenues are filtered into the provincial coffers that are utilized for provincial programs (Mandel, 2000). This statistic may be misleading, however, for it is possible for Rama to receive zero net profits for the fiscal year and the province would still benefit from casino operations. This may help answer why two-thirds of respondents indicated "that gambling revenue is a preferred method of raising money" while less than 20 per

cent viewed raising taxes as acceptable (Azmier, 2000: 8) and why only one per cent of respondents believed that First Nations should be the principal operators of gaming establishments (10). One is able to conclude from this brief overview that the majority of Canadians agree that gaming is an acceptable revenue generator, but that First Nations should have little control over these same establishments.

With more First Nations looking to gaming as a solution to their economic problems, more research into why this polarity of opinions exists is required. For instance, does the intensity of complaints about Aboriginal-controlled gaming correspond to whether the economy is in a tail-spin? A review of newspaper and magazine articles, popular opinion polls and televised media reports could be effectively utilized to provide insight into this issue. The Winnipeg Sun two years ago did a good job of covering events in Headingley, Manitoba, located just outside of Winnipeg, where the Swan Lake First Nation of Manitoba sought to build a \$90 million, 22,000 square-foot casino on land awarded through Treaty Land Entitlement negotiations. Swan Lake leaders chose Headingley due to its proximity to Winnipeg. Headingley community members objected to the casino plan claiming that higher crime rates and social problems such as alcoholism would result. At a time when only one per cent of Canadians believe that First Nations should be the primary operators of gaming establishments (Azmier, 2000: 10), it should come as no surprise that as of December 2000, the Swan Lake casino bid had been quashed. It is interesting to note that those who most vigorously opposed the casino plan claimed a moral victory.

Snipp (2000) confronts this issue by claiming that opposition in the United States to reserve casinos would dwindle if these outfits were run by non-Natives, suggesting that it is not a moral dilemma on the part of Native leaders but rather "the unpleasant spectre of racism" that requires examination on the part of dominant society (29). While the perception in Canada is that reserve casinos are run by First Nations, the fact is that Casino Rama and Casino Regina, for example, are staffed by First Nation workers but are run by casino management firms and provincial gaming corporations. Nevertheless, when First Nations are in a position to exude a modicum of control over gaming at the reserve level, the decisions made about gaming by and for the

community must be considered legitimate due simply to the fact that these decisions need to be made from an "insider's point of view" that outside political leaders are not privy to (Belanger, 2001). Further, "gaming in First Nations communities is not a moral issue for leaders to consider, since theoretically they are guided by their constituents. Should the community choose to allow gaming ... then outside ethical concerns should cease to play a role as these new self-governing bodies begin to assert their sovereignty."

### **Ensure Communities Are Not Overwhelmed by Influx of Gaming Revenues**

Investigating current casino operations in the United States indicates that plans need to be in place that are able to properly handle the influx of money that hits the community if gaming is a success. Although no examples exist in Canada, we can look to a number of bands who in the mid-1980s found themselves suddenly rich from oil royalties and derive from their experiences the potential difficulties that gaming-rich communities could experience. The events that transpired at Hobbema, located 100 km southeast of Edmonton, in the mid-1980s provide us with insight into what can occur when a community is suddenly overwhelmed with large and seemingly free-flowing sums of money (York, 1990). Oil royalties in this case made the band rich enough that land and property could be purchased in Banff, yet today they are bankrupt and under investigation for mismanagement of funds, which is seen by many as a lesson other bands seeking to establish reserve gaming could learn from. Also, many U.S. tribes attempted to establish gaming and failed. In a presentation before the National Gambling Impact Study Commission in 1998, co-director of the Harvard Project on American Indian Economic Development Joseph Kalt stated that of the close to 200 tribes that engaged in on-reserve gaming, eight accounted for more than half of all the revenues generated in the 1990s. A review of the reasons these tribes failed could be useful for Canadian bands currently engaged in studying the gaming issue who are also looking to avoid a similar circumstance. There has been almost no attention paid to how the gaming success of one band influences another band seeking to establish gaming. With so much money to be made, First Nations leaders must be aware of the multitude of variables that must coalesce to make

a gaming establishment a success while avoiding becoming captivated by the substantial revenues that could be made.

There is no doubt that the influx of money will one day have a significant effect. Recently, the province of Ontario distributed the first monies according to the revenue-sharing agreement from the \$400 million in revenue that has been generated since Rama first opened its doors in 1996, from which Rama will get \$140 million. The remaining 133 First Nations will receive to a \$1 million each. The Mnjikaning Band also receives an additional \$8 million yearly (adjusted for inflation) from the casino lease and liquor, restaurant, and parking revenues. When you begin to factor in how much money is to be potentially made, the issue of becoming overwhelmed by money is a significant concern. In 1999 alone, gaming revenue in Canada amounted to \$4.983 billion (Statistics Canada, 75-001-XPE).

There are now more than 50 permanent casinos in seven provinces, 21,000 slot machines, 38,000 video lottery terminals, 20,000 annual bingo events and forty-four permanent horse race tracks in Canada (Azmer, 2000). More Canadians are gambling as well, wagering upwards of \$6.8 billion annually on some form of government-run gambling activity. Statistics also show that there has been a two-and-a-half per cent increase in the numbers of people gambling from 1992 levels, with casinos and video lottery terminals listed as their preferred gambling activity. These two activities alone accounted for almost 60 per cent of government revenue from gambling, and during the same period, profits for provincial governments from this source also rose dramatically: In 1997, for instance, gambling accounted for at least three per cent of total government revenue in all provinces (Marshall, 1998). This is an impressive figure and the primary reason why Aboriginal communities looking to establish local economies focus on casinos.

Given the number of people regularly gambling and the proliferation of gaming establishments, will Canadians become more discerning in their spending habits and make the conscious choice not to spend their money at a First Nations-run casino? An internal Mnjikaning document claims that Ontario's new racetrack slot machines will siphon more than \$200 million a year from Rama (Mandel, 2000: 41). There is also the threat of a waterfront casino opening that was part of Toronto's failed Olympic bid,

which Mayor Mel Lastman vows is going to occur. Should gaming at an Native-run establishment become a novelty that is abandoned in search of closer betting opportunities, reserve-based gaming in Canada could become a failure of immense proportions.

### **Effectiveness of Rama Compact in Appeasing Multiple Interests**

Following the announcement that an agreement had been reached over revenue-sharing, it was clear that the Mnjikaning First Nations would receive the bulk of the revenue (40 per cent) designated for Ontario First Nations (who all receive an equal 1/133 of the revenue). As well, Metis and Aboriginal peoples were left out of the equation completely. A court case followed in which a group of non-Status Natives led by Robert Lovelace challenged that their exclusion from the revenue-sharing agreement violated the Charter of Rights and Freedoms (Mofina, 2000). In June 2000, the Court of Ontario in its Lovelace decision stated that the Metis and other non-Status Aboriginal groups were not being discriminated against as a result of not being included in the revenue sharing compact, and therefore were not subject to a portion of the revenue generated at Rama Casino. Further investigation into the effectiveness of the Rama gaming agreement is warranted to determine how effective such compacts are at appeasing all parties and whether they play a role in keeping other bands from striking out on their own in search revenues.

Aside from these difficulties, the Rama gaming compact does have the opportunity to provide the funding for projects that would otherwise be ignored due to a lack of resources. In the United States, gaming revenues have been utilized to improve community infrastructure, including improved water systems and sewer systems, roads, communications infrastructure, schools, and libraries. Day care, senior centres, available medical services and recreations centres would also become norms at the reserve level (Antell, Blevins & Jensen, 2000: 4; Hill, 1994: 61). Similarly, the Saskatchewan Provincial government decided in 1994 to develop the Casino industry in both Regina and Saskatoon, with Casino Regina emerging from these discussions (the Saskatoon plans were scrapped) followed by the First Nations entering into negotiations with the Saskatchewan government and develop-

ing the Federation of Saskatchewan Indian Nations-Province of Saskatchewan Partnership Agreement. Further, the First Nations Gaming Act was created to govern the legislative and management regime. This Agreement was signed February 10, 1995 and fully recognizes the right of First Nations to operate provincial gaming facilities. The agreement included a revenue sharing agreement for Casino Regina, of which 25 per cent of all profits are to be paid to the First Nations. In return, First Nations casinos have to contribute one-quarter of their profits to provincial coffers (Poelking, 1996: 7), although the province agreed to allow Saskatchewan First Nations to negotiate up to five casinos in the province under their management and control (Connor, 1996: 38). It is interesting that the revenue sharing agreement in both cases did not provide the First Nations with more than a one-quarter share. This is occurring in spite of the communities bearing the brunt of the difficulties associated with gaming, such as constant noise, excessive traffic and the corresponding rise in pollution, or the additional stress placed on existing infrastructure.

In Ontario and Saskatchewan alone, comparative studies examining the use of revenue for community development are required; as well, qualitative and quantitative studies looking at public perception of these casinos would be effective in shedding light on how the public views Native run gaming establishments. Despite provincial concerns over the potential effects of unregulated competition in the gaming industry, these same governments are also charged with the responsibility to regulate the industry, consequently market saturation could only evolve through mismanagement or naivete on the part of those who grant licenses according to economic forecasts (this is the sole responsibility of the provincial governments). The boom in Indian gaming in the United States is expected to peak in the next decade (Wilmer, 1997: 98), and the major concern is that of market saturation. Cozzetto (1995) echoes these concerns by asking how many more casinos can the American market handle. In California, where 40 of the state's 130 tribes already have gambling (Garrity, 1998: 24), it is projected that these tribes have the chance to push past Nevada as the largest gambling market in the country (Palermo, 2000). It is apparent that in the United States market saturation will become more pronounced; keeping this in mind, what is the Canadian govern-

ment doing to ensure that the same trend does not occur north of the border, thereby permitting First Nations the chance to secure the revenue needed to promote self-governance? Similarly, should non-Status or Metis groups decide to challenge the government to permit their opening of gaming establishments, the Canadian market could quickly become saturated and ineffective. And will market saturation effect the number of patrons who currently frequent Native gaming outfits? These are but some of the questions that require investigation.

### **Will Reserve Gaming Result in Increased Problem Gaming among Native Peoples**

Many opponents to Aboriginal gaming claim that the introduction of gaming to reserve communities has the potential to increase problem gambling amongst community members, and is a question worthy of consideration at this point. There is unfortunately a tremendous lack of information available concerning to the negative effects gaming could potentially have upon an Aboriginal community, and the literature that is available presents at best an ambiguous picture. Jorgensen (1997) states that many of the social problems associated with Indian gaming are similar to those associated with non-Indian gaming. At the same time, Cozzetto and Larocque (1996) determined compulsive gambling to be higher among North Dakota state residents due to the abundance of casinos. Interestingly the authors accept the rise in social pathologies that corresponded to the opening of gaming establishments as a byproduct in the push toward greater economic benefits. They do not, in this case, tackle the question of what measures could be taken to avoid such problems prior to opening gaming establishments. Zitgow's (1992) study of Indian and non-Indian gamblers in Montana suggested gambling among adolescents to be higher than in any other group.

Only one study in Canada has been conducted to date: *The Alberta Alcohol and Drug Abuse Commission on Aboriginal Adolescent Gambling*, conducted by the Nechi Institute of Alberta. The results of the study of 961 Aboriginal students indicated that almost half of the sample (49 per cent) were either problem gamblers or were at risk of becoming problem gamblers. The study also indicated that this was a learned behaviour from parents and peers. It was

concluded that "that gambling is not the result of lack of opportunity or lack of interest in other activities; thus providing more activities will not likely solve the problem," adding that "given the current high levels of participation, these activities may provide the medium through which problem prevention could occur" (Nechi Training, 1995: 28). Statistics also show that there has been a two-and-a-half per cent increase in the numbers of people gambling from 1992 levels, with casinos and video lottery terminals listed as their preferred gambling activity. These two activities alone accounted for almost 60 per cent of government revenue from gambling, and during the same period, profits for provincial governments from this source also rose dramatically (Korn, 2000). With gambling on the rise, issues of problem gambling among Aboriginal people will likely become more prevalent.

In certain cases, the issue of gaming has been a divisive issue with the communities. The most visible example of this divisiveness occurred at Akwesasne through late 1989 and early 1990, where the issue of casino gambling sparked much publicized violent confrontations between Mohawks that ultimately left two men dead (Desbrisay, 1996). Harvey's (1996) study of Pequot and Navajo approaches to dealing with the gaming issue indicates that culture plays an integral role in whether a tribal community is prepared to deal with the exigencies of gaming. In the end, the Pequot's embraced gaming while the Navajo decided against gaming despite the potential economic benefits. Similar studies could be conducted at Mnjikaning as well as in The Pas, Manitoba or Regina, Saskatchewan to offer indicators as to whether or not gaming is in certain cases culturally applicable and how this will affect the success of proposed gaming operations.

### **Economic versus Community Development**

Following on the issue of whether gaming is culturally relevant, there is currently a debate regarding how Native people should approach developing their economy and what initiatives have the potential to be most successful. One school of thought suggests that sovereignty must first be attained and that the evolution of the economy will flow accordingly (Cornell & Kalt, 1993, 1998; Trosper, 1993) while others argue that economic strength and sovereignty are more

intertwined than they realize and therefore must be developed simultaneously (Harvey, 1996).

Mohawk and Lyons (1994) stress that while many tribes claim their opening casinos as an act of sovereignty, investors integral to launching such enterprises may in the end play a more significant role in directing community initiatives than first anticipated (58–60). This is an issue that will become more pronounced as the sovereignty card is utilized by First Nations seeking to improve their economic lot. Although investment of lands claims settlement monies have been utilized to fund casino constructions, investors are often sought out by First Nations who wish to initiate casinos but lack economic stability do so. According to Desbrisay (1996):

It appears that the First Nations are not having any problem finding investors, despite not having provincial approval to go ahead with their project. Not long after the Mohawks at Kahnawake expressed interest in building a casino on their reserve, it was reported by a member of the Kahnawake Mohawk Council that “seven to 10 American gaming firms are wooing reserve leaders” (*Montreal Gazette*, 6 November 1993, p. A6). The Council eventually chose Grand Casinos Inc. who already manages two reservation-based casinos in Minnesota, and is developing three others in Louisiana and California (*Montreal Gazette*, 17 April 1994, p. A1).

Since it is apparent that investors are ample and fully prepared to direct money toward potential gaming opportunities, how influential these investors will one day become within First Nations communities is important to investigate. Currently, RamCorps is partnered with the Province of Ontario and U.S.-based Penn Gaming out of necessity, due primarily to the fact that provincial leaders refused Mnjikaning reserve leaders the opportunity to manage the casino. In all, what effect does this tripartite agreement have? Further, how influential are these partners in the day-to-day operations not only at the casino but within the community?

### **Effect of Gaming on Peripheral Economies/Populations**

Gaming revenues not only aid in reserve development, the surrounding communities also benefit from this influx of money. Speaking in 1994, then-chairman of the Oneida Tribe in Wisconsin,

Richard Hill stated “Surrounding communities near Indian gaming operations report boosts in their own economies. Oneida’s gaming operations add to our local economy more than \$50 million in new income” (61). In short, to better understand the effect of reserve gaming is to examine how it affects those communities peripheral to reserve communities that have chosen to become involved with gaming. The early data suggests that peripheral economies and populations will benefit economically from localized gaming establishments, although there is limited data available for a more definitive conclusion. In Windsor, for instance, one year following the opening of a 50,000 square foot casino, and economic evaluation conducted concluded that the casino contributed \$752 million to Canada’s GDP and that Windsor’s unemployment rate, until then 1.6 per cent above the national average, dropped to 8.5 per cent, which was below the 9.7 national average (McKay, 1997).

The numbers are such that there is optimism that the economic benefit peripheral economies realize will be substantial, although these benefits will not be realized by all First Nations across the board. Although not a Canadian example, take for instance the Foxwoods Casino run by the Mashantucket Pequots in Connecticut, where more than \$9 billion was wagered in 1999–2000 alone (State of Connecticut, 2000). It has been estimated that every new Foxwoods job supports roughly 1.23 additional non-casino jobs, meaning that 20,017 new jobs have been created in New London County where the casino is located (Boger, Spears, Wolfe & Lin, 1999: 141). A similar example is in Minnesota, where it is estimated that the reservation casinos drew an approximate 19.6 million patrons in 1994, including 3.3 million from outside the state (Boger, Spears, Wolfe & Lin, 1999: 147). These figures indicate the impact Native American gaming has had on tourism not only for the casinos themselves but for the State of Minnesota (Marquette Advisors, 1997). Take into consideration that the Rama casino has only been in operation for five years, it is difficult to yet determine the effects to the peripheral economies. At Mnjikaning, however, over 80 buses arrive each day packed with gamers who spend an average of \$65 (Mandel, 2000: 41). This interest in gaming has resulted in Rama now being able to employ more than 3,000 people, of which approximately 2,300 come from the surrounding communities (Mandel, 2000: 41). Further, construction costs

for the gaming industry in 1992/93 were tagged at \$69-million, with more than \$78-million spent annually on wages (in Desbrisay, 1996).

## Conclusion

As has been demonstrated, Aboriginal gaming in Canada is relatively new and little has been written on the subject to date. And although the U.S. experience can provide Canada's First Nations with useful lessons, the fact of the matter is the Canadian situation is much different than what is occurring south of the border. There are large enough enterprises currently operating in Canada from which preliminary information can be produced. Rama and the Saskatchewan Aboriginal casinos have been in operation for more five years, more than long enough to provide an adequate data base from which many of these aforementioned projects can be centred. This data would also be extensive enough for comparative purposes with reports and studies conducted in the United States. This will provide researchers information to determine whether trends are evident and how to either promote or alleviate these trends, depending on their influence upon the community.

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