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Toni Williams
Kent Law School, University of Kent

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All About That Place: The Curious Case of Bingo Liberalisation in Brazil

TONI WILLIAMS*

Le bingo est une forme de jeu souvent associée aux bonnes œuvres, aux services sociaux, au divertissement à faibles enjeux et à la sociabilité de la classe ouvrière. Dans bon nombre de pays dans le monde, les salles de bingo relèvent d'œuvres de bienfaisance, de clubs d'anciens combattants, de femmes âgées et de familles, mais pas au Brésil. Le Bingo commercial y a connu une forte croissance pendant une décennie de légalité qui a pris fin en 2004. Les salles de bingo légales employaient des dizaines de milliers de personnes. Majoritairement des Brésiliens et Brésiliennes de la classe moyenne et de bonne éducation y jouaient, ainsi que des femmes et des hommes âgés de la classe ouvrière. Toutefois, le jeu, ou plutôt les salles dans lesquelles les gens y jouaient se sont transformées en blanchisseries d'argent sale, en sources de corruption des pouvoirs publics et en risques pour la sécurité des quartiers urbains. Au moyen d'une analyse sociojuridique contextualisée des lieux que sont devenus les salles de bingo brésiliennes et de la place qu'elles occupent dans la société brésilienne, cet article suggère qu'il peut être intéressant de se pencher sur le rôle qu'occupe le Brésil dans un contexte de mondialisation afin de comprendre pourquoi la législation et réglementation brésiliennes n'ont pas réussi à institutionnaliser les salles de bingo commerciales pour en faire des lieux amusants, sécuritaires et sains en vue d'atténuer les risques qu'elles posaient et d'assurer la pérennité du bingo en tant que loisir légal.

Bingo is a form of gaming that is often associated with good works, social services, low stakes entertainment, and working-class sociality. In many parts of the world bingo halls are the province of charities, veterans' clubs, older women, and families: But not in Brazil. Commercial bingo grew rapidly in Brazil during a decade of legality that ended in 2004. Legal bingo halls employed tens of thousands of people and the game was widely played by middle-class and well-educated Brazilians as well as older working-class women and men. However, the game, or more precisely the bingo halls in which it was played, came to be regarded as laundries for dirty money, sources of corruption of public powers, and risks to the security of urban neighbourhoods. Using contextualised socio-legal analysis of the places that Brazilian bingo halls became and their place in Brazilian society, this article suggests that it may be insightful to look to the place of Brazil in a globalizing world to understand why Brazilian law and regulation failed to institutionalise the commercial bingo hall as a site of clean, safe "fun," to contain the risks it posed, and to ensure the continuity of bingo as a legal leisure practice.

* Toni Williams, Kent Law School, University of Kent, G.A.Williams@Kent.ac.uk. I wish to thank and acknowledge my enormous intellectual debts to friends and colleagues on the Bingo project collaboration from whom I learned a great deal. I would like to thank in particular Maria Luiza Kurban Jobim who was a wonderful research collaborator throughout the project and as ever provided insightful comments on the paper. Thank you to the editors, Alex, Donal and Kate for all of your work in bringing together this special issue and for your comments and suggestions. The article benefited from careful reading by Iain Ramsay; and was significantly improved by the incisive comments and suggestions of two anonymous reviewers and the perceptive, rigorous and sensitive editing of the JLSP editors – thank you. All remaining errors and limitations are mine.

BRAZIL OPENED UP A DOMESTIC MARKET FOR BINGO during the late-20th century wave of gambling liberalisation across the non-Islamic world. It exempted the game from a longstanding prohibition of privately owned gambling services and created an institutional framework for the development and governance of bingo halls. In terms of sector growth, participation and revenues, the legalisation of bingo succeeded. A large number of commercial bingo halls sprang up across the country, especially in the large prosperous cities of Southern Brazil; they remitted general taxes to the treasury of federal and state governments; they supported the development of sports, and Brazilians of different social classes, genders and generations, frequented the halls. Brazil's governance framework for commercial bingo, by contrast, seemingly failed. Despite repeated reforms to the legal architecture of its bingo market, the state was unable to establish robust and sustainable regulatory arrangements to contain the risks it perceived the bingo halls to create. Only seven years after opening up the commercial bingo market, the federal government embarked on regulatory measures to close it down. These measures met with defiance, resistance and repeated legal and political challenges from bingo owners and managers, workers and players, but to no avail. By 2007, less than fifteen years after legalisation, Brazil had, in effect, repealed the exemption from prohibition and repositioned its bingo halls outside the law.

Brazil's experience of bingo legalisation is unusual in a few respects. In many countries, bingo is firmly associated with good works, social services, low-stakes entertainment, and working-class female sociality and the bingo hall is the province of charities and churches, veterans clubs, families, and older women.¹ Brazil's bingo sector started with a social dimension in the sense that the original justification for legalisation was to support the development of sports and leisure. Once legalised, however, the bingo halls were engulfed in scandals about organized crime, money laundering, and corruption. Within a few years of legalization, the Brazilian bingo hall had acquired a reputation, akin to that which Skolnick attributed to the US casino as "a most accessible ... laundry for the vast quantities of dirty money that accumulate annually ... through skimming, bribery, corruption and crime."²

A corollary to that reputation is Brazil's distinctive framing of the principal risks that bingo halls were perceived to pose and the harms that their regulation failed to control in terms of criminality risks to state, culture and society from corruption, criminal networks and money laundering. While the containment of criminality risk is a conventional justification for gambling regulation in many jurisdictions, it is unusual for popular and policy discourse to associate this risk so strongly with the game of bingo as occurred in Brazil. Relatedly, the prominence given to criminality risk in Brazil tended to displace concerns about risks to player health and financial security that feature so significantly in policy debates about gambling regulation elsewhere.

Finally, it is noteworthy that the Brazilian state ended the process of liberalisation so soon after starting it. Termination of the bingo market contradicts the reported tendency of gambling liberalisation processes to gather momentum and become unstoppable.³ It also

¹ Kate Bedford, "Bingo Regulation and the Feminist Political Economy of Everyday Gambling: In Search of the Anti-Heroic" (2016) 13:6 *Globalizations* 801–14.

² Jerome Skolnick, *House of Cards: legalization and control of casino gambling* (Boston: Little Brown, 1978) at 47.

³ Peter Adams, *Gambling, Freedom and Democracy* (London: Routledge, 2008); Sytze Kingma, "Gambling and the risk society: the liberalisation and legitimation crisis of gambling in the Netherlands" (2004) 4:1 *International Gambling Studies* 47–67.

conflicts with the treatment of Brazil's most significant legal gambling modality, the state-owned lottery. Federal lottery games and playing opportunities proliferated in part through government entrepreneurship and willingness to maintain a facilitative regulatory framework illustrating that in Brazil—as Adams, Kingma and others have found elsewhere—the state can become reliant on gambling revenues, implicated in expansion of the gambling economy and invested in avoiding excessive disruption of the lucrative activity.⁴ The rapid growth of commercial bingo premises and business revenues after legalisation shows that Brazil's enabling regulatory framework did permit momentum to build and in that sense the case fits the early stages—emergence and regulation—of the proliferation thesis, but the normalization phase was never fully institutionalized.⁵ In the case of Brazil's bingo halls, liberalisation was not too strong to stop.

Stimulated by these observations—and noting in particular that popular and official understandings of the Brazilian bingo hall as a site of corruption and source of criminality risk arose from the game's legalisation, not its prohibition—this article explores the apparent unwillingness or inability of the Brazilian state to manage these risks and institutionalise the commercial bingo hall as a lawful place. Working from the premise that it may not be useful simply to view the state's unwillingness or inability to manage criminality risk as a consequence of regulatory inadequacies, potentially correctable through reform—because that conclusion begs the question about why effective reform did not occur—this article asks how did Brazil benefit from its swift reversion to illegality?

To answer that question, this article draws on case study research on Brazil's regulation of its bingo market. The data collected include twenty semi-structured interviews of individuals with knowledge and experience of bingo in Brazil during and after legalization, including players and former bingo owners, judges, lawyers, and public servants involved in law enforcement, industry analysts, journalists and politicians, addiction researchers, and support services providers.⁶ These interviews were conducted by my research collaborator, Maria Luiza Kurban Jobim, with individuals located in Sao Paulo and Rio Grande do Sul, the two states that hosted the highest numbers of bingo businesses when bingo was legal; Rio de Janeiro, a state that has a long tradition of popular gambling and is home to prominent gaming industry analysts and lobbyists; and the Distrito Federal, the location of the nation's capital and seat of the Federal government which is responsible for gambling legislation. Other case study data include legislative and regulatory texts on gambling regulation in Brazil, case law, data and commentary published by the Comissão Parlamentar de Inquérito dos Bingos, (CPI dos Bingos) a comprehensive federal inquiry into bingo in Brazil and secondary sources ranging

⁴ *Supra* note 3. In 2014, the total revenues from federal government lotteries were about R\$13.5 billion, CAIXA LOTERIAS (2014) *A sorte em números*, online: <http://www.caixa.gov.br/Downloads/caixa-loterias/2014_A%20sorte%20em%20numeros.pdf> [perma.cc/M7KD-P8UK] at 50. This was more than three times the R\$4.1 billion annual revenue reported in the 2006 Parliamentary Inquiry into bingos, *Relatório da comissão parlamentar de inquérito referente ao relatório final da CPI: Bingos*. Brasília, DF: Senado Federal, 2006, online < <http://www2.senado.leg.br/bdsf/bitstream/handle/id/82024/RelFinalBingos.pdf?sequence=11>> [perma.cc/HLN3-23Z3] > (hereinafter, *CPI dos Bingos*) 83. The Inquiry indicated that the Brazilian state benefits proportionately more than others from the lottery because it pays out only one-third of its revenues in prizes (retaining the remaining two-thirds for operating expenses, sports development purposes, cultural, development, social security, prisons, and higher education) as compared to the 40-50% of revenues paid out by other national lotteries, at 84.

⁵ Adams, *supra* note 3 at 33.

⁶ The research team did not directly observe or participate in any games because bingo halls were unlawful at the time of this study.

from newspaper archives through journal articles, websites, and blogs to PhD theses.⁷ These data are analysed by reference to shifts in regulatory outputs, that is the regulatory instruments and agents that the state deployed, rather than the party-political processes that produced the changes.⁸

The article makes two main claims. First, that the business and property relations of Brazil's legalized bingo halls turned these places into channels for illicit funds to flow from impugned sources and into arrangements that corrupted public powers. In this setting, the reversion to illegality became a means to eliminate a point of access to state actors for criminal networks. Second, the article suggests that at the turn of the 21st century the places that the bingo halls had become—and the criminalised activities that they housed—were perceived not only to threaten internal security, but also to jeopardise Brazil's place in the world, that is, to pose a risk to the country's political aspirations for "soft power" and increased recognition as a significant actor in the international economy.⁹ In relation to these aspirations, the Brazilian state's capacity to stake and enforce visible and meaningful boundaries between legal and illegal practices potentially served to communicate important reputational information about sovereignty and about its stance on international cooperation. Its use of the criminal instrument to reposition the bingo house as unlawful thus allowed Brazil to demonstrate, at one and the same time, sovereign powers of control within its own territory, including the power to manage internal security and to discipline its markets; and, somewhat paradoxically, its integration into a global economy that demands even of powerful states compliance with increasingly stringent and intrusive requirements to monitor financial flows and manage the risks that they pose.

Part I summarises the development of the Brazilian bingo market as a social and economic institution after legalisation of the game in 1993. After a brief introduction to the prohibition era context of gambling practice, this part discusses where legal bingo halls were established, who used them, and the kinds of places they became. Part II describes the governance of commercial bingo in Brazil through the legal and regulatory provisions that initially enabled and then suppressed the bingo hall. Part III explores the international political economy context of the Brazilian state's resort to criminalisation to dismantle an apparently successful industry. It outlines the contradictory effects of a nascent political-economic order that fed Brazil's ambitions for international influence and the concurrent rise of a normative order governing transnational financial flows that imposed stringent demands on Brazil to manage the very risks that its bingo houses seemingly exacerbated. Reflecting on the tensions and contradictory effects of these orders, the article concludes that the repositioning of the bingo hall as a criminalised space enabled the state to demonstrate an ability to respond robustly

⁷ More details on the case study can be found at Kate Bedford et al, *The Bingo Project Report: Rethinking Gambling Regulation*, online: <kent.ac.uk/thebingoproject/resources/Bingo_Project_report_final.pdf> [perma.cc/RC8Q-KY24]. Sections of this article are taken from the text of the project report, but the argument and analysis are new.

⁸ For an outline of some of the interests at play in debates over bingo regulation in Brazil, see Maria Luiza Kurban Jobim and Toni Williams, "Chance Developments: bingo regulation in Brazil" (2017) *Revista Análise Econômica* 35, online: <seer.ufrgs.br/index.php/AnaliseEconomica/issue/view/2992> [perma.cc/2VET-MPXQ] 103–19. For detailed discussion of the political interests engaged by gambling regulation debates in Brazil, see Matthew Vaz, *The Jackpot Mentality: The Growth of Government Lotteries and the Suppression of Illegal Numbers Gambling in Rio de Janeiro and New York City* (PhD thesis, Columbia University, 2011) [unpublished].

⁹ Joseph Nye, "Soft power" (1990) 80 *Foreign policy* 153–171; on Brazil's aspirations, see for example, Harold Trinkunas, "Brazil's Rise: Seeking Influence on Global Governance" (2014) *Latin America Initiative*, online: <calhoun.nps.edu/bitstream/handle/10945/43088/Trinkunas_Brazils_Rise_2014.pdf> [perma.cc/VC3K-6JLK]; Larry Rohter, *Brazil on the Rise: the story of a country transformed* (Palgrave: New York, 2012).

to a home-grown risk in ways that comport with international priorities about disrupting impugned financial flows. As such, the reversion to criminalization of the bingo hall potentially contributed to Brazil advancing or at least protecting its international standing in the global economy.

I. THE DEVELOPMENT OF THE BRAZILIAN BINGO HALL

A. GAMBLING UNDER PROHIBITION IN BRAZIL

Bingo was legalised in Brazil as an exemption to the suppression of gambling that had been enacted in the 1940s under Presidents Getúlio Vargas and Gaspar Dutra.¹⁰ The 1946 law, sponsored by President Dutra, justified the suppression of gambling by reference to universal values, shared internationally, and Brazil's cultural, moral, and religious traditions.¹¹ Then, as now, relationships between Brazilian politics, religion, social morality, and cultural practice, were complex and contradictory. Described recently as both the “most Catholic” and the “most Pentecostal” country in the world,¹² formally, Brazil had no established state religion after 1890, the advent of the first Republic. During the early 1940s, however, when the country was internationally-renowned for its flourishing casinos, it was also in the grip of a powerful NeoChristendom movement that sought to re-establish the Catholic Church at the heart of the Brazilian state.¹³ Its project to “re-Catholiciz[e] Brazil from the top down”¹⁴ was articulated at the inauguration of Rio's famous Corcovado statue (Christ the Redeemer) when the Archbishop of Rio de Janeiro issued an ultimatum to President Vargas that “either the State . . . will recognize the God of the people or the people will not recognize the State.”¹⁵ The same project is implicit in the justification of President Dutra's prohibition legislation in terms of Brazil's religious traditions.

Suppression of the gambling economy was resisted by casino owners through legal challenges that sought exemptions from the legislation and extensions of licences, but the

¹⁰ Decreto-Lei no 3.688/1941 & Decreto-Lei no 9.215/ 1946. Brasília, DF, 1946. (Coleção de Leis do Brasil, v. 3). Gambling offences were classified as contraventions (roughly equivalent to misdemeanours) rather than serious crimes, so that convictions carried less moral turpitude than Criminal Code offences and penalties were less harsh.

¹¹ Decreto-Lei No 9.215/1946, Preamble.

¹² Rudolph von Sinner, “Pentecostalism and Citizenship in Brazil: Between Escapism and Dominance” (2012) 6:1 *International Journal of Public Theology* 99–117 at 102.

¹³ Darién Davis discusses Brazil's successful casino sector of the 1930s in Darién Davis, *White Face, Black Mask: Africaneity and the Early Social History of Popular Music in Brazil* (East Lansing, MI: Michigan State University Press, 2009).

¹⁴ Ralph Della Cava, “Catholicism and society in twentieth-century Brazil” (1976) 11:2 *Latin American Research Review* 7–50 at 11. Religion continues to exert a significant influence over many aspects of Brazilian politics and culture today. Catholicism, Pentecostalism and other charismatic traditions and Syncreticism are still widely practiced. More than 90 per cent of Brazilians are religiously affiliated and religious leaders are culturally influential in some respects. They also wield political power: five out of thirty-two official political parties are religious and, while most of these parties are small in terms of the number of representatives in the legislature, under Brazil's highly fragmented and individualized electoral system, they frequently are able to bargain for socially conservative policies. There is longstanding hostility towards the animal game, Brazil's popular illegal numbers game—and the entrepreneurs who run it—amongst religious leaders, but religious opposition to bingo did not emerge as a significant theme in our interviews. The case study does not explore the reasons for this difference but it is worth noting that Catholic and Pentecostal churches offer non-commercial bingo games to raise funds for buildings and social projects, which could account for a less hostile stance towards the game.

¹⁵ *Ibid* at 14.

legislation made lawful private-sector provision of popular gambling services impossible. While the legislation destroyed the formal casino sector as intended, the scope of prohibition was never all-encompassing in terms of the law in the books or in practice: for example, poker was *de facto* exempted from the legislation because it was defined as a game of skill and on-track betting was allowed through private clubs.¹⁶

Mass-participation gambling in Brazil also continued in two forms after prohibition: legal lottery games offered by the public sector and Brazil's privately-provided illegal numbers game, the *jogo do bicho* ("animal game").¹⁷ Both flourished throughout the 20th century and remain popular today, with the federal lottery operator reporting annual revenue of R\$13.5 billion in 2014 and the *jogo do bicho* reportedly generating an estimated R\$12 billion in extra-legal revenues for its entrepreneurs.¹⁸ Building on their ownership of illegal gambling services, entrepreneurs of the *jogo do bicho* numbers game often consolidated local power bases through investments in social, political and cultural activities, including the Samba Schools that parade during Carnival and local services in underserved favelas, as well as in petty corruption.¹⁹ In addition to their involvement in the illicit gambling that continued in Brazil throughout the prohibition era, some of these entrepreneurs reputedly are heavily engaged in other illegal trades, including narcotics and firearms trafficking within and beyond Brazil.²⁰

B. THE BRAZILIAN BINGO HALL 1993-2006

After legalization opened the market in 1993, bingo halls were established in every one of Brazil's twenty-six states and the Distrito Federal, but they were unevenly distributed across the country. By the early 2000s, the regulator, the Caixa Econômica Federal (CAIXA), had issued licences for 924 bingo halls, half (468) of which were located in São Paulo, Brazil's largest and richest state, with another 140 bingo halls (15 per cent of all bingo businesses) located in Rio Grande do Sul, Brazil's fourth richest state. The remaining five states of Brazil's prosperous South and South East regions together hosted 183 bingo halls, about 20 per cent of the total. According to the CAIXA data, 87 per cent of the country's bingo businesses were located in its wealthiest states, as compared to an estimated 57 per cent of Brazil's population.²¹ By contrast, seven states clustered in Brazil's poorest region, the North, together hosted fewer than twenty bingo businesses, just two per cent of the total. Southern Brazil then, as now, was

¹⁶ Eduardo Mahon, "Poker não deve ser considerado contravenção" (2011) Consultor Jurídico, online: <conjur.com.br/2011-jan-23/habilidade-jogador-decisiva-ganho-jogo-poker> [perma.cc/CJ4B-LWRU].

¹⁷ This privately-run lottery game that traces its origins to the marketing of the first zoo in Rio de Janeiro during the 1890s has been extremely popular in Brazil, since its inception, despite being positioned almost entirely outside the law. See Amy Chazkel, *Laws of Chance: Brazil's Clandestine Lottery and the Making of Urban Public Life in Brazil* (Durham: Duke University Press, 2011) for a rich and insightful historical and socio-legal anthropology of the development of the *jogo do bicho*; Vaz, *supra* note 8 offers a rich account of contemporary developments.

¹⁸ *A sorte em numeros*, *supra* note 4; Samantha Pearson, "Brazil hopes gambling will reverse its fortunes: Government eyes tax revenues to plug country's budget deficit" *Financial Times* (5 September 2016) online: <ft.com/content/646bac98-6d72-11e6-a0c9-1365ce54b926>.

¹⁹ See generally, Michel Misse, "Mercados ilegais, redes de proteção e organização local do crime no Rio de Janeiro" (2007) 21:61 *Estudos avançados* 139-157. For extensive commentary on the work of bicheiros as social and cultural services entrepreneurs, see Vaz, *supra* note 8.

²⁰ Mac Margolis, "Brazilian Authorities Link Lottery to Political Corruption" *Los Angeles Times* (9 April 1994) online: <articles.latimes.com/1994-04-09/news/mn-43915_1_brazilian-authorities> [perma.cc/78SY-URHE]; See also discussion in Vaz, *supra* note 8 at 393, 400-04.

²¹ "2000 Census estimates" Instituto Brasileiro de Geografia e Estatística, online: <ibge.gov.br/home/estatistica/populacao/censo2000/primeiros_resultados_amostra/tabela_regioes.shtm> [perma.cc/5SKJ-YYNH].

much more populous than the North, but, as Table 1 below shows, the distribution of bingos was considerably more skewed towards prosperous regions and states than was the distribution of the population.

A study conducted by the CPI dos Bingos during the mid-2000s located more bingo businesses (1547) across the country than had the regulator, with notably higher numbers in poorer states. It too showed substantial regional disparity, however, as the number of bingos in the North (29) and North East (184) regions, home to an estimated 35 per cent of Brazil's population, amounted to less than 15 per cent of the total, while two-thirds (68 per cent) of bingos were concentrated in four states in the South and South East where two-fifths (42 per cent) of the population live. These data confirm that the state of São Paulo hosted the largest number of bingo halls (595), although, at 38 per cent, its share of the total number of businesses was smaller than the CAIXA data had indicated and somewhat less disproportionate to its 22 per cent share of the Brazilian population. With 224 bingos, the state of Rio Grande Do Sul again hosted the second largest number of bingos and in this study, its share amounted to about 15 per cent of the total number of bingo businesses in the country, about two and one-half times its share of the Brazilian population.

Table 1: Distribution of population and bingo businesses in Brazil, early 2000s

| Region | Share of Brazil's population in 2000 (%) ** | Share of licenced bingo businesses recorded by regulator (%)* | Share of bingo halls estimated by Commission of Inquiry (%)* |
|----------------------------|---|---|--|
| North | 7.6 | 1.9 | 2.5 |
| North East | 28 | 8.9 | 11.9 |
| South East | 42 | 62.3 | 53.4 |
| State of São Paulo | 21.8 | 50.6 | 38.5 |
| South | 15 | 23.2 | 26.1 |
| State of Rio Grande do Sul | 5.9 | 15.1 | 14.5 |
| Central West | 6.8 | 3.4 | 6 |

* Percentages calculated from data reported in the CPI dos Bingos

** Percentages calculated from 2000 census estimates, Instituto Brasileiro de Geografia e Estatística, [online: <ibge.gov.br/home/estatistica/populacao/censo2000/primeiros_resultados_amostra/tabela_regioes.shtm>](http://ibge.gov.br/home/estatistica/populacao/censo2000/primeiros_resultados_amostra/tabela_regioes.shtm) [perma.cc/5SKJ-YYNH].

Bingo halls generated substantial business revenues recorded officially at almost R\$390 million in 2001 and 2002.²² But this figure substantially understates annual receipts according to the sector's regulator. Indeed, the CAIXA estimated that only about 10-20 per cent of bingo hall revenues had been reported.²³ About 20 per cent of the revenues that the regulator collected in 2001 and 2002 were remitted to specific purposes including the funding of Sports

²² *CPI dos Bingos*, *supra* note 4 at 105.

²³ *Ibid.*

Federations (7 per cent), the ministry of Sports (4.5 per cent) and Brazil's Olympic Committee (1-2 per cent) and funding of the regulator itself (7 per cent).²⁴ Additional tax revenue from bingo halls was raised through general taxes on salaries and profits and specific taxes for designated purposes.

Many Brazilians patronised the bingo halls during their heyday with a 2006 national opinion survey reporting that 15 per cent of the population had attended a bingo hall at least once.²⁵ Men (20 per cent) were twice as likely as women (10 per cent) to report having attended a bingo hall, and men (at 23 per cent) were more likely than women (16 per cent) to favour legalisation of bingo halls and slot-machines though, men and women were equally likely (about half of those surveyed) to oppose it.²⁶

Adults of all age groups frequented the bingo halls with those aged 20-39 being just as likely to report having played there as those in their 50s and 60s. Twenty-three per cent of the population with the highest level of formal education reported having visited a bingo hall as compared to only 9 per cent of the least formally educated; and those with the highest incomes (28 per cent) were more than twice as likely as the lowest income earners (12 per cent) to report to have gone to a bingo hall.²⁷

Contemporaneous newspaper stories and visits to working bingos that were reported in the CPI dos Bingos indicate (consistent with recollections of interviewees in this case study) that many legalised bingo halls targeted middle-aged and affluent people, promoting bingo as a sophisticated leisure option and developing the premises as a conducive environment for both relaxation and business networking. For example, *Zero Hora*, a newspaper based in Rio Grande do Sul, the state with the most disproportionately large share of bingos, contrasted a recently-established bingo hall that had “a carpeted environment filled with mirrors, full of electronic equipment and waiters in ties serving imported whisky” with the former image of a bingo hall “... [as] a common room with long tables, dining chairs, straw on the floor and underpaid workers trying to have fun or earn some money without spending a lot,” concluding that under legalization, “bingo has become a chic leisure option.”²⁸ The same newspaper quotes the proud boast of a director of a large bingo hall in Porto Alegre, that his bingo hall “bring[s] together people representing 90% of the [state's] GDP.”²⁹

Some bingo halls invested substantially in decor and fittings to convey opulence, glamour, and excess. One respondent reminisced that a well-known bingo hall in his city “was famous for being one of the most luxurious places in the city ... the first time I went it was a beautiful place with lovely chairs and tables made of marble.”³⁰ Similarly, researchers working on behalf of the CPI dos Bingos observed of Bingo Imperatriz in São Paulo that its “sumptuousness is easy to see even from the outside, which is adorned with plenty of light and statues of African figures. The luxurious interior is impressive. There is carpeting all over the

²⁴ *Ibid.*

²⁵ *Ibid* at Anexo II-D, table 19.

²⁶ *Ibid* at Table 18.

²⁷ *Ibid* at Table 19.

²⁸ Solano Nascimento, “Bingo vira forma chique de lazer” *Zero Hora* (12 November 1994). In this comment the speaker appears to compare the new high-end bingo halls that had recently emerged with the facilities opened in 1993 immediately after legalisation or it may be that the speaker intended to contrast the new bingo halls with informal clandestine bingo facilities established under prohibition. The newspaper story is ambiguous.

²⁹ *Ibid.*

³⁰ BR01.

floor, an aquarium full of carp under a glass floor and the space is decorated with more than 100 statues.”³¹ Evidence that the Imperatriz had succeeded in reaching its target demographic appears in the investigators’ report, which comments that judged by their cars, dress, and compartment, the clientele of the Imperatriz came from Brazil’s wealthiest social classes.³²

Most bingo halls, even those targeting the well-off, were more modestly appointed than the Imperatriz, though still very comfortable. An observation of another São Paulo bingo hall observes, for example, that despite also serving clients from the wealthiest social classes, the Itaim “does not have the same luxury as Bingo Imperatriz; however, it is not a simple place and it has its refinements. The entire floor is carpeted and the room where the card game of bingo is played is as modern as the largest bingo hall in São Paulo.”³³ Reporting on “the largest and most luxurious” bingo hall in Florianópolis, in the Southern state of Santa Catarina, the police investigators comment that although its “luxury, decoration and refinement do not measure up to the best and most luxurious bingo halls in the city of São Paulo, its similarity with the best bingos in São Paulo is the wall-to-wall carpeting.”³⁴

Large, luxurious bingo halls catered to prosperous Brazilians. Other bingos, targeting lower income people, were less well-appointed in terms of decor and furnishings. The manager of a bingo hall in Porto Alegre commented that her business “with its plastic tables and chairs and reusable cards mostly attracts the lower and middle classes ... the public who really understands bingo.”³⁵ Another newspaper story about a plainly-outfitted bingo hall that offered the lowest prices in the city of Porto Alegre, quotes the owner’s description of their clients as “clients simples” (ordinary people).³⁶ More modest bingo halls might be placed in shopping malls and unlike the Imperatriz their exteriors could be quite nondescript: everyday accessibility was part of the appeal.³⁷ One interviewee recalled, for example, “a huge bingo on two floors [that] gave us dinner, afternoon coffee ... everything... One floor was only slot machines, another floor was only card bingo. It was in a mall and always packed because the people who worked at the mall played a lot.”³⁸

Within a few years of the opening of the bingo market, the spatial segregation that this comment alludes to between group-based bingo, played on cards, and individualised play in rooms full of electronic game machines, had become typical of the Brazilian bingo hall.³⁹ Businesses that served richer and poorer clienteles alike divided publicly-used space between the well-lit, environments of comfortable rooms where people sat at tables shared space to play the conventional card-based bingo game, and large dimly lit spaces stocked with hundreds of electronic machines where individuals played alone.

Spatial separation of different gambling modalities mapped onto gender and generational differences in how people used the premises. Although women and men at times occupied all publicly-accessible places within the bingo hall, women generally were more likely to play

³¹ CPI dos Bingos, *supra* note 4 at Anexo II-B, Relatórios de visitas a casas de bingos, Bingo Imperatriz 23 at 1209.

³² *Ibid.*

³³ *Ibid* at 1211.

³⁴ *Ibid* at 1220.

³⁵ Nascimento, *supra* note 28 at 5.

³⁶ *Ibid* (original Portuguese) “Estabelecimentos mais simples buscam a atrair a classe baixa”

³⁷ For example, Center Bingo, Florianópolis, *CPI dos Bingos*, *supra* note 4 at 1223.

³⁸ BR02.

³⁹ *CPI dos Bingos*, *supra* note 4 at Anexo II-B, Relatórios de visitas a casas de bingos.

card-based bingo and men tended to frequent the rooms housing electronic machines.⁴⁰ Older people were more likely to use the space dedicated to card games and younger ones to choose the machines.⁴¹ Revenues from electronic gaming machines (EGMs) could be substantial with the report of the CPI dos Bingos finding that “in São Paulo electronic gaming machines represent 80 per cent of the profit from bingo halls, sometimes reaching 90 per cent.”⁴² Bingo halls normally rented the machines, paying monthly an agreed share of the machines’ revenue or (less frequently) a fixed rental per machine.⁴³

Operating hours often differed between the two types of spaces: rooms housing machines (and ATMs) might open for 20-24 hours per day, while those housing card-based play kept shorter hours.⁴⁴ Some bingo halls divide up usage by time to cater to players with different desires, needs, and constraints. One former bingo owner described how he had tailored advertising, refreshments, and incentives to different demographic groups to maximise productive use of the place: during the day it attracted elderly people who wanted to socialise with their friends; and in the early evening it targeted workers trying to avoid the city’s notorious traffic jams. Later in the evening, the business was aimed at people who wished to extend their leisure time after eating dinner; and in the early hours of the morning, it catered to night workers such as security guards, and restaurant and bar managers who needed a place to chill out after work.⁴⁵

This overview of the Brazilian bingo hall under legalisation shows that these places became popular and successful businesses in much of the country, catering to their local communities through employment, consumption opportunities, and the provision of leisure facilities. Electronic gaming machines of various types were integral to their development at least in the major urban centres of the prosperous South and South East, leading the CPI dos Bingos to observe that the prevalence of machines “detracts somewhat from the idea that these places should be considered bingos and makes them seem more like casinos.”⁴⁶

Bingo halls replicated Brazil’s well-entrenched class divisions. In keeping with their casino-like attributes, bingos were mostly patronised by wealthy, well-educated men in the country’s richest areas although they certainly attracted others as well, including older women and men. Pervasive disregard of some aspects of law was manifested through the bingo halls dispensing of cigarettes and the prevalence of smoking within them.⁴⁷ But this form of petty illegality hardly accounts for the reputation that the bingo hall had acquired by the time the market closed, when, according to the Parliamentary Inquiry, half (51 per cent) of Brazil’s population associated bingos with “criminal practices such as money laundering, tax evasion

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid* at 115.

⁴³ *Ibid* at Anexo II-B, Relatórios de visitas a casas de bingos.

⁴⁴ *E.g.* Golden Bingo in Florianópolis opened 24 hours per day, *Ibid* at 118, while the Imperatriz, Imperador and Itaim in São Paulo, which were under the same management, all opened their electronic machine rooms from 09:00-07:00, closing for 2 hours per day for cleaning, and their (card)-based bingo rooms were open for 12 hours per day, from 13:00-01:00. CPI dos bingos, *supra* note 4 at Anexo II-B, Relatórios de visitas a casas de bingos.

⁴⁵ BR09.

⁴⁶ *CPI dos Bingos* at 115.

⁴⁷ CPI dos Bingos Researchers visiting bingos in 2006 noted that smoking was common with staff in some bingo halls dispensing free cigarettes, even though smoking had long been banned in publicly used spaces since 1996. Lei No 9294/96, online: <camara.leg.br/legin/fed/lei/1996/lei-9294-15-julho-1996-349045-norma-actualizada-pl.html> [perma.cc/V28S-G2C2].

and increasing violence.”⁴⁸ To understand why 43 per cent of Brazilians surveyed in 2006 would express the view that “bingo halls have no positive features,”⁴⁹ in effect, why the regulation failed to ensure public confidence in the licensed bingo market, this article now turns to the governance of Brazil’s commercial bingo sector.

II. THE RISE AND DEMISE OF COMMERCIAL BINGO REGULATION IN BRAZIL

A. THE THREE PHASES OF BRAZIL’S COMMERCIAL BINGO REGULATION

Brazil’s regulation of its bingo market can be divided into three phases according to how the state wielded the illegality instrument. It lifted illegality between 1993 to 2000 to create a market for lawful bingo; partially reapplied illegality from 2000-06, which restricted supply and placed many bingo halls in a shadow zone of openly contested legality; and fully restored illegality in 2007, driving the game underground. These latter shifts were justified politically on the grounds that the bingo halls offered criminal networks places from which to launder money, generate corrupt arrangements, and damage public security.

The bingo market was opened by Lei Zico, a law not about gambling as such but about the democratisation and financing of sport.⁵⁰ Article 217 of the 1988 (post-dictatorship) Constitution characterizes participation in sport as an individual right in Brazil and imposes duties on the state to foster the exercise of this right, to respect the autonomy of sports federations, to fund the practice of sports in education and some high performance sports, to protect and incentivize the development of national sports, and to encourage leisure as a means of promoting society.⁵¹ Lei Zico was enacted in 1993 to give effect to these new constitutional obligations. It sought to foster the development of sport and at the same time “to embed in the arena of sports a predominant philosophy of ‘destatisation’ ... eliminating state interference in the internal business of sports clubs.”⁵² To that end, Article 57, which contains the only reference to bingo in the legislation, authorises state treasuries to permit sports organisations to raise money for sports development by holding “a type of sweepstakes called Bingo, or similar.”

Substantive rules on bingo governance and regulation were enacted in November 1993, modified in 1998 by Lei Pelé,⁵³ and again in 2000 by Lei Maguito.⁵⁴ These rules created an institutional framework for sports organisations to develop and market the game, covering matters such as accreditation requirements for market entry, premises occupancy, licensing of owners, operators and premises, returns to players and remittance of revenues to sports development, and to pay for the regulator, reporting and accountability requirements, including

⁴⁸ *Ibid* at 120.

⁴⁹ *Ibid*.

⁵⁰ Lei no 8.672/93.

⁵¹ Art 217, *Constitution of the Federative Republic of Brazil*, Câmara dos Deputados, online: <livraria.camara.leg.br/direito-e-justica/constitution-of-the-federative-republic-of-brazil.htm> and in English at: <constituteproject.org/constitution/Brazil_2014.pdf> [perma.cc/92YH-EHCD].

⁵² Dossiê Lei Zico, Brazil, Câmara dos Deputados, PL 965-1991 (Folha 3 da E.M. No 002, de 28 de fevereiro de 1991).

⁵³ Lei No 9.615/98 (Lei Pelé).

⁵⁴ Lei No 9.981/2000.

certification standards for bingo halls covering equipment, premises, licensees' financial standing, and records of compliance with safety, labour and consumer laws.

Lei Zico placed responsibility for financial supervision on the treasury departments of Brazil's 26 states and the Distrito Federal but made no provision to fund this regulatory work. Lacking the expertise to govern the diverse businesses in the emerging bingo market, many state treasuries delegated their regulatory powers to the organisations that ran state lotteries. Regulatory activity across the country was quite uneven with no guarantee of effective governance even in states with large bingo industries. In São Paulo, for example, the lottery-regulator ... "just existed on paper drawn up by the Secretary of the Treasury ... It never worked ... Entrepreneurs soon realised that what they did would not be monitored and that's what started the fragile relationship between bingos and public authorities."⁵⁵

Lei Pelé replaced Lei Zico in 1998 after corruption scandals occurred in states that regulated substantial commercial bingo markets. It shifted regulatory authority over the bingo market to the federal government, which then delegated the responsibility to the National Sports Development Institute (INDESP). This small agency lacked the resources to regulate the bingo economy effectively. It therefore contracted with existing state regulators to continue their local supervisory arrangements, including some whose corrupt relationships with bingo entrepreneurs were known.⁵⁶ Regulation at the state level persisted in about half of Brazil's 26 states and the Distrito Federal, with the effect that conditions were ripe for established corrupt relationships to continue. INDESP proved to be no more effective or incorruptible than the states that regulated Brazil's bingo halls. In the wake of a jurisdictional conflict over the regulation of electronic gaming machines in states to which INDESP had contracted out its regulatory powers,⁵⁷ evidence emerged of systematic bribery of INDESP staff to buy their support for further increases in the number and type of electronic machines permitted in bingo halls.⁵⁸

Brazil's federal government responded to this scandal by closing down entry to the bingo market in 2000, a mere seven years after it had opened the market. Lei Maguito withdrew the authority to grant new bingo licences but allowed established bingo halls to continue until expiry of their (renewable)–licences. This legislation also transferred responsibility for supervision and surveillance from INDESP to the CAIXA, which ran the successful federal lotteries and in 2001 INDESP was shut down.⁵⁹ At the end of 2002, all federal licences that had been given to bingo establishments expired.⁶⁰

Expiry of the federal licences did not immediately end Brazil's commercial bingo market but instead moved the sector into the second phase of partial (il)legality. This phase relied on two techniques to secure continuity of the market: First, states that had regulated bingos within their jurisdiction since legalisation on the basis of their own enabling legislation carried on, in

⁵⁵ BR09.

⁵⁶ CPI dos Bingos, *supra* note 4 at 264.

⁵⁷ Portaria INDESP n.104/98 made detailed provision for the types of permissible machines and software as well as the terms on which licences could be issued, including by the state regulators. It also limited the number of machines to 20 per cent of the capacity of the bingo hall.

⁵⁸ Portaria INDESP n.23/99 expanded the number of machines. E. Boudens, 2000. Bingo: usos e abusos. Consultoria Legislativa. Câmarados Deputados. Centro de Documentação e Informação. Coordenação de Publicações Brasília.

⁵⁹ Medida Provisoria n.2216-37/2001.

⁶⁰ CPI dos Bingos, *supra* note 4 at 27, fn 6.

effect exercising the federal government's power to regulate the bingo sector. Second, some state courts became involved in the bingo market after Lei Maguito when owners asked judges to issue injunctions ("liminares") to extend expired licences.⁶¹ As there was little consistency in the exercise of this judicial power, bingo hall stakeholders found it difficult to understand what was required to succeed in court. Moreover, because of the lucrative nature of the businesses affected—and the substantial losses occasioned by closure—there were suspicions that judges were being corrupted to secure licence extensions. As one interviewee observed: "there were judges who allowed bingo halls to operate normally ... And there was speculation that these injunctions would cost R\$1 million, 2 millions, 5 millions... [T]hose who got these decisions felt like they had won the lottery."⁶²

Yet another corruption scandal erupted in 2004. This time, the misconduct was that of an associate of a very close adviser to then President, Luiz Inacio Lula da Silva (Lula), and the payment the associate had solicited (two years before the video of the transaction surfaced) was from a well-known entrepreneur of both bingo and the illegal *jogo do bicho*. The entrepreneur was asked to finance political campaigns for the governing Workers' Party (PT).⁶³ A swift assertive response to this scandal was called for because of the damage it caused to the Worker's Party which had risen to power in 2003 with a commitment to stamp out corruption.

Initially, Lula tried to ban the operation of bingos and slot machines across the country by issuing a presidential decree. This 2004 response failed, however, because Brazil's National Congress refused the endorsement that was required to bring the decree into effect.⁶⁴ Reprieved by Congress, courts in some states—notably São Paulo and Rio Grande do Sul—continued to issue discretionary injunctions to extend bingo licences.⁶⁵

Three events during 2006-7 formally ended commercial bingo in Brazil. First, specialised police and prosecutorial offices, established as part of a national strategic response to money laundering and corruption, exposed the corruption of state courts that had been issuing injunctions to extend bingo licences since the 2000 enactment of Lei Maguito.⁶⁶ This exposure eroded confidence in the integrity of court processes and increased the urgency of the perceived need to create an effective response. Second, Brazil's Constitutional Supreme Court affirmed the federal government's exclusive power over gambling regulation, rendering

⁶¹ *E.g.* Mandado de Segurança N° 70005921507, Quarta Câmara Cível, Tribunal de Justiça do Rio Grande do Sul, Relator: Araken de Assis, Julgado em 28/05/2003 (Rio Grande do Sul); Mandado de Segurança N° 4730320000 Relator(a): Linneu Rodrigues de Carvalho S; Comarca; Poá; Órgão Julgador; 7° Câmara; Data do julgamento: 27/05/2004; Data do registro: 16/06/2004 (São Paulo). Brief summaries of these and similar cases can be found in Bedford, *supra* note 1.

⁶² BR13.

⁶³ Vaz, *supra* note 8 at 406–8. For a careful analysis of problems created by Brazil's distinctive electoral system, which generates highly individualistic competition *within* political parties, and campaign financing rules, which disadvantage leftist parties, see David Samuels, "Money, elections, and democracy in Brazil" (2001) 43:2 Latin American Politics and Society 27–48.

⁶⁴ Medida Provisória No 168/ 2004.

⁶⁵ *Supra* note 69.

⁶⁶ Operation Hurricane and Operation Themis. Citing federal police sources, the *Folha de São Paulo* reported the arrests of 43 members of a criminal organisation involved in bingo that paid out monthly "maintenance" fees of R\$20 000 - R\$30,000 to legal officials (including judges, prosecutors and tax officials) plus R\$150,000 for each favourable decision to keep open a bingo hall; Marcelo Guttieres, "PF diz que 'bingão da Justiça' pagava R\$ 30 mil por mês a magistrados" *Folha de São Paulo* (20 April 2007) online: <folha.uol.com.br/folha/brasil/ult96u91431.shtml> [perma.cc/J28X-EYP9].

unconstitutional the decisions of the state governments and courts to extend bingo licences.⁶⁷ Third, a Parliamentary Commission of Inquiry, the CPI dos Bingos, was established to investigate Brazil's bingo houses, with an emotive justification:

Organised crime and gambling are 'conjoined twins' ... Since the very beginning in 1993 the bingo halls have rendered a disservice to the Nation... [U]nder the false mantle of contributing to the funding of sports clubs, some of these entities have been used to launder money derived from criminal activities ... The bingo halls have as investors—sometimes hidden—known criminals who often represent the interests of international mafia organizations.⁶⁸

After extensive investigation, the CPI dos Bingos concluded that organised crime businesses—both domestic and international—had indeed captured much of the Brazilian bingo market and used bingo halls as places in which to launder money, negotiate criminal conspiracies, and corrupt executive power from federal to municipal levels.⁶⁹ The inquiry nevertheless recommended that the bingo sector should remain lawful, albeit with a significantly strengthened regulatory infrastructure. That recommendation was not implemented, however, as the state chose instead to terminate the market.

Commercial bingo did not end in Brazil after the reversion to illegality, but it became less visible as privately-owned businesses took to offering the game through clandestine bingo halls, mobile and online modalities.⁷⁰ It appears to be widely played: an industry expert estimated, for example, that between 200 and 250 clandestine bingos continue to operate in Brazil⁷¹ while a public prosecutor working in a city that had a vibrant bingo sector during legalisation reported that several years after the end of legalized bingo:

... [W]e had about ten illegal bingo halls that were working simultaneously in [the city]. So I went there and closed them and the next day they reopened. I tried as a strategy to 'de-capitalise' illegal bingo halls, seizing everything they used to operate the bingo. We sometimes took 300 or 400 chairs, armchairs and tables. Even doing this, some bingos were still very fast to reopen ... which shows that they really had a lot of capital to finance the reopening of these locations.⁷²

Ten years after the restoration of illegality, the state's positioning of the game as outside the law continued to be fiercely contested: Industry lobbyists advocate the revival of a commercial market, drawing on, *inter alia*, recommendations of the CPI dos Bingos and well-rehearsed claims that have succeeded elsewhere about its potential contributions to government revenue streams.⁷³ Within the legislature, attempts have been made to replace prohibition with a liberalised regulatory instrument.⁷⁴ Since October 2017, several investors, claiming to act on

⁶⁷ Súmula Vinculante nº 2, DJe nº 31/2007, 1, em 6/6/2007, DJ de 6/6/2007, 1; DO de 6/6/2007, 1.

⁶⁸ CPI dos Bingos, *supra* note 4 at 7.

⁶⁹ *Ibid* at 12, 134, 122–149.

⁷⁰ *E.g.* BR01, BR02, BR03

⁷¹ BR07.

⁷² BR01.

⁷³ See for example resources on the websites of Instituto Jogo Legal, a Brazilian organization that produces studies and lobbies for the legalisation of gambling in Brazil, <http://www.institutojogolegal.com.br> and on the Brazil pages of Gambling Compliance, a provider of "legal, regulatory and business intelligence to the global gambling industry" with offices in the UK and the US, gamblingcompliance.com/in-focus/brazil-sleeping-giant.

⁷⁴ *E.g.* Senado do Brasil PLS 186/2014.

the authority of state court decisions, have opened (and then been quickly forced to close) bingo halls in Porto Alegre, a city that had sustained a thriving bingo market during the era of legalised play.⁷⁵

B. WHY DID BRAZIL'S BINGO MARKET FAIL?

Several aspects of the regulation influenced how Brazil's bingo halls developed and eventually contributed to the sector becoming engulfed by scandal. The first concerned the capacity of bingo owners and operators to meet regulatory standards. It became clear within months of the 1993 enabling legislation that the sports clubs and federations that had been considered its likely beneficiaries lacked the business acumen to develop bingos, the capital to invest in the bingo halls and the administrative and management systems to meet basic regulatory standards. Regulators responded to this problem by permitting sports organisations to partner with commercial investors in bingo halls and share the revenues. According to a former bingo owner, "the [regulatory] system they approved was not a good fit for the plan [to stimulate sports development] because there were so many certification requirements."⁷⁶ The regulations did not take account of the impact of certification requirements related to the number of employees or scale of operations on large sporting organisations; consequently some of Brazil's best known sporting clubs, which legalization was intended to support, were essentially priced out of entry to the bingo market because of the cost of obtaining certification to operate a bingo facility and sometimes also the cost of paying outstanding tax liabilities.⁷⁷

Although smaller clubs might have had similar types of debts and obligations, the sums they owed normally would be much lower so that entrepreneurs could pay for the necessary certificates to develop a bingo hall in collaboration with a small sports federation. One interviewee commented for example, that: "it happened all the time. Licences were obtained in partnership with small sports rather than the big sports clubs that the legislators had envisaged."⁷⁸ Evidence reported by the CPI dos Bingos confirm that small sports benefited disproportionately from the bingo halls. Niche activities such as boxing, rowing, and sailing, which have relatively few participants in Brazil, were each supported by one of the sixteen bingo halls visited by Inquiry investigators. By contrast, fewer than half of the bingos supported football, which is by far the most popular sport in Brazil, practiced regularly by more than 13 million players—and millions more occasionally—and feature a number of very large sports clubs. Other popular Brazilian sports, including volleyball, judo, futsal, capoeira, and surfing, did not appear at all amongst the beneficiaries of the bingos that the CPI dos Bingos visited.⁷⁹

Capacity problems were exacerbated by regulatory requirements about places of play. The 1993 decree required bingo halls to be established as large-scale businesses, with a minimum occupancy of 500 seats, and to be fully equipped with closed-circuit TVs, high quality sound, and machine-based drawing systems. These provisions were intended to contain

⁷⁵ Carlos Rollsing, "Casa de jogos Winfil registra abertura de 10 filiais no RS" *Gauchazh* (27 February 2018) online: <gauchazh.clicrbs.com.br/geral/noticia/2018/02/casa-de-jogos-winfil-registra-abertura-de-10-filiais-no-rs-cje4st5sb022m01qx7etc8hiu.html> [perma.cc/CN4V-Y9EA].

⁷⁶ BR07.

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

⁷⁹ *Ibid.* For commentary on popular sports in Brazil, see LaMartine P. DeCosta, "Cenário de tendências gerais dos esportes e atividades físicas no Brasil" (2006) *ATLAS DO ESPORTE NO BRASIL*. RIODEJANEIRO: CONFEF; Igor Itsumi, "15 Most Popular Sports in Brazil" *The Brazil Business* (21 July 2014) online: <thebrazilbusiness.com/article/15-most-popular-sports-in-brazil> [perma.cc/BV3M-CRZ3].

the risk of fraud and ensure that the new bingo businesses were sufficiently well-capitalised. Bingo halls thus demanded substantial investment at a level well beyond the reach of most non-profit sporting associations and their development also required large-scale effective marketing to secure an adequate return on investment. Many bingo developers viewed EGMs as the solution to ensure sustainability of the bingo hall. To those favouring expansion, the regulation of gaming machines became the focus of lobbying to remove regulatory controls on the number of permissible machines in a bingo hall.⁸⁰

Bingos attracted, among others, entrepreneurs from Brazil's lucrative illegal gambling sector as investors (as well as consumers of gaming and leisure services). By the mid-1990s, some owners of large *jogo do bicho* franchises had accumulated considerable capital from trafficking as they had taken advantage of the post-dictatorship opening up of Brazil's economy and borders to diversify into businesses based on illicit flows of finances, services and goods (such as narcotics, guns, money and cigarettes) across Brazil's extensive borders.⁸¹ These criminalized trades generated huge revenue streams that then had to be integrated into the legitimate economy for their value to be realised. As cash intensive businesses that dealt largely with anonymous transactions in exceptionally high frequencies and volumes, the commercial bingo halls offered good opportunities to launder money, particularly through the gaming machines and in-house financial services. Bingo house cheques, loan services, foreign exchange facilities and convertible value instruments such as gaming machine chips, vouchers and ticket in/ticket out (TITO) systems could be used to trade illicitly-obtained funds for cash with a traceable source.⁸² Bingo halls thus appealed to entrepreneurs of unlawful businesses because they created ways to spend, trade, and invest the proceeds of crime that mask its origins and convert proceeds into apparently legitimate funds.

Collusion with bingo hall staff opened up other ways to generate ostensibly "clean" money from illicitly obtained funds. Employees could be bribed to tamper with gaming machines or to conspire with clients in constructing false identities and they could be enticed to ignore customers who "smurf" on behalf of clients by performing multiple small transactions in amounts below threshold requirements for reporting of suspicious activity.⁸³ According to the CPI dos Bingos, the most common forms of collusion in Brazil were the purchase of

⁸⁰ CPI dos Bingos, *supra* note 4. Other bingo owners, by contrast, blamed slot machines for corruption and the ultimate demise of the lawful bingo hall. One former bingo owner indicated, possibly with the benefit of hindsight, that he had opposed the installations of electronic gaming machines in his bingo hall because he had believed the machines would "finish off" the bingo sector. BR12.

⁸¹ E.g. A. Yürekli & Ö. Sayginsoy, "Worldwide organized cigarette smuggling: an empirical analysis" (2010) 42:5 Applied Economics 545–561. CPI dos Bingos includes extensive discussion of the smuggling of electronic gaming machines and money and also reports on the involvement of bicheiros with organised crime networks from other countries. Brazil's territory borders 10 different countries (all but two South American states border Brazil). Only China and Russia have longer land borders. Information gathered from Nations online Project, online: <nationsonline.org/oneworld/map/brazil-map.htm> [perma.cc/DYE3-BMRU]; CIA World Factbook.

⁸² FATF-GAFI & APG (2009) *Vulnerabilities of Casinos and Gaming Sector* (Paris: FATF/OECD).

⁸³ Definition taken from Gambling Commission report at 33, paraphrasing the FATF definition: The Gambling Commission (UK) "Money laundering and terrorist financing risk within the British gambling industry" Oct 2016, online: <<https://www.gamblingcommission.gov.uk/PDF/AML/Money-laundering-and-terrorist-financing-risk-assessment-March-2018.pdf>>. On the sector's vulnerabilities to money laundering, see also FATF, *ibid.*, Canada, Financial Transactions and Reports Analysis Centre, Money Laundering Typologies and Trends in Canadian Casinos, Nov 2009.

“winning” cards outside the draw and the over-stating of prizes.⁸⁴ The former practice was particularly popular because the cards showed taxes as deducted at source so that the purchaser immediately secured documentary record of legitimacy that could be attached to the illicitly obtained funds.

Investment in bingo halls and equipment emerged as another key money-laundering strategy pursued by criminal networks.⁸⁵ Legalisation created new ways to insert cash into the formal economy through wages, taxes, rent, and the costs of upkeep of premises. Successful management of legalised bingo halls also facilitated the laundering of reputation because it legitimated entry into influential networks and afforded investors access to legal institutions for dispute resolution unavailable to illegal businesses. These resources of legitimacy and access created by legalization of the bingo hall then served as a foundation for investors with additional business interests in criminalized flows of other goods and services, such as narcotics, arms, and finance, to corrupt political, executive, and judicial institutions within Brazil.⁸⁶

The CPI dos Bingos described three types of schemes by which entrepreneurs of illegal gambling and other criminalized networks and actors, including those from outside Brazil, invested illicitly-obtained funds into Brazilian bingo halls. One scheme entailed outright ownership of a bingo operation, concealed behind layers of property relations, which were then registered in the names of third party “straw persons” (testas-de-ferro), often people of modest means: Brazilian and Spanish criminalized networks were said to be significant actors in this type of scheme.⁸⁷ Foreign investors, from Italy, France, and Spain, apparently dominated the second scheme, which monopolised the importing of electronic gaming machines through complex networks of off-shore companies, tax havens, and dummy businesses headed by “front-men.”⁸⁸ Supplying bingo halls was very much secondary to this scheme as its main purpose was to launder illicit capital flows from international narcotics trafficking.⁸⁹

The third scheme grew out of the extortion of tolls from bingo halls by the entrepreneurs of local illegal gambling businesses—a practice that began shortly after legalisation. Some of these entrepreneurs then diversified into trade in lucrative EGMs within Brazil. They initially leased the machines to the legitimate partnerships between sports clubs and commercial managers that operated the bingo halls. Illicitly obtained money that had been invested in acquisition of the machines would then be returned in the form of legitimate receipts and rent from their use. By 2006, such arrangements had developed to the point that some bingo halls had been absorbed into large criminal conglomerates often with interests in multiple illegal trades. The conglomerates were dominated by members of Brazilian criminal networks and the CPI dos Bingos found well-established associations between *jogo do bicho* entrepreneurs and the bingo industry in the Distrito Federal and Goiás (the state in which the Distrito Federal is

⁸⁴ CPI dos Bingos, *supra* note 4 at 150–03. Cards could also be purchased after the draw directly from the winners. This latter technique was also used for the lotteries.

⁸⁵ *Ibid* at ch 4.

⁸⁶ *Ibid*; Larry Rohter, “Brazilian Numbers Game Ties Officials to Mobsters” *New York Times* (7 June 2007) online:

nytimes.com/2007/06/07/world/americas/07brazil.html?_r=1&scp=1&sq=%22jogo+do+bicho%22&oref=slogin [perma.cc/RSF4-V88A].

⁸⁷ CPI dos bingos, *supra* note 4 at 135.

⁸⁸ *Ibid* at 134–5.

⁸⁹ *Ibid* at 133–4.

located), and in the two states with the largest bingo sectors, Rio Grande do Sul and São Paulo.⁹⁰

In addition to facilitating corruption and the injection of dirty money into the economy, Brazilian bingos were considered to be destabilizing presences in urban settings when the criminal networks that had invested in them were perceived to conduct narcotics and guns trafficking in the same neighbourhoods as the bingo halls.⁹¹ And as these illegal trades became more visible on the streets, so too did the violent extra-legal enforcement methods practiced by criminalized organisations to secure transactions and territories for distributing their goods and services.⁹² Thus, in 2006, the CPI dos Bingos found that some 50 per cent of Brazilians associated legalized bingo with increased violence as well as money laundering and tax evasion—7 per cent singling out increased violence as its most significant negative effect.⁹³

These findings about the regulation of bingo halls indicate that Brazil closed its bingo market not so much because of concerns about harm to players or to suppress play as such, but rather to contain the risk to the public interest that the bingo hall had become. While the risks of corruption and violence that the Brazilian state sought to address through reversion to illegality may be evident, its choice of this stance merits comment. Illegality was restored ostensibly because of the state's inability to control—through less repressive regulatory instruments and techniques—the flows of illicitly-obtained funds into the bingo hall and funds derived from lawful bingo that were deployed to unlawful ends outside the hall. In practice, however, regulation through instruments such as illegality tends to produce crime rather than to suppress it and over-reliance on illegality as a regulatory technique, especially against the trades and transactions encompassed by “vice” and other economic crimes, risks eroding respect for the law and public confidence in a state's capacity to exert control; and it also expands the activities subject to informal and extra-legal means of control including violence.⁹⁴ The question thus remains of why Brazil chose reversion to illegality, which tended to exacerbate the problem that the state sought to resolve instead of attempting to develop a stronger, more effective regulation of a legal bingo market?⁹⁵

One possible explanation derives from expressive aspects of illegality. Even if the criminal instrument does little to reduce a particular site of criminality risk, it nonetheless remains a powerful symbol and means to communicate state power. In relation to crimes created to control cross-border flows of goods, services, and capital, the communication work that the criminal instrument does may be directed out towards the international community, which over the past thirty years has acted particularly assertively to demand that states criminalise financial flows, as much as it is directed in towards the local one.

⁹⁰ *Ibid*; The Report noted similar relationships between bingos and entrepreneurs of illegal gambling in Bahia and Rio de Janeiro, two states that also had sizeable bingo industries during the legalization era.

⁹¹ Rohter, *supra* note 86.

⁹² For systematic analysis of the high and rising rates of urban violence in Brazil at that time see Joseph Murray, Daniel Ricardo de Castro Cerqueira and Tulio Kahn, “Crime and violence in Brazil: Systematic review of time trends, prevalence rates and risk factors” (2013) 18:5 *Aggression and Violent Behavior* 471–483.

⁹³ CPI dos Bingos, *supra* note 4 at 120; DataSenado, Senado Federal, *Pesquisa de Opinião Pública Nacional: O Brasileiro e as Casas de Bingo no País*, Anexo II-D at 8.

⁹⁴ For discussion of criminogenic effects in the specific context of relationships between states and criminal networks, see Josiah McC. Heyman (ed), *States and Illegal Practices* (Oxford: Berg, 2011).

⁹⁵ As was recommended by the *CPI dos Bingos*, *supra* note 4.

III. THE INTERNATIONAL POLITICAL ECONOMY CONTEXT

Brazil's bingo halls were local institutions and the corruption problems they generated were manifested within a national setting. Notably though, many of the institutions and instruments that Brazil deployed to reimpose illegality had their origins in or were influenced by international norms and standards. Consideration of the international context therefore may provide insight into what the Brazilian state gained from reversion to illegality as its primary regulatory instrument for the bingo hall.

Three elements of that context are important to the legalisation and subsequent re-criminalisation of Brazil's bingo halls. The first is the opening of Brazil's economy, especially its borders, during the 1990s and into the 21st century as the economic plans of the first post-dictatorship presidents strove to reintegrate the country into the global economy. The second element is the emergence of circumstances that held out the tantalising prospect of Brazil attaining its longstanding historical aspirations to be regarded as an influential country that wields soft power internationally. The third important element is the proliferation of international instruments to criminalise flows of finance and of disfavoured goods and services.

These elements are interconnected. Brazil's aspirations to be seen as globally significant were strengthened by the trade deals opened its borders; and its newly opened borders both challenged and inspired the government to accede to international instruments that demand the deployment of criminalisation to disrupt cross-border flows of impugned goods, services, and capital. Transposition of the international treaties into domestic law provided a framework and resources to assist with the management of borders and as such to strengthen an aspect of sovereignty that is conventionally understood in terms of a state's control over entry and exit from its territory. That international context also afforded Brazil an opportunity to demonstrate its capacity to internalize emerging international norms and standards about financial flows, to collect financial information, and to use the information to discipline domestic institutions and markets.⁹⁶ By showing that it could act responsibly and effectively against illicit financial flows, Brazil then strengthened its claims for influence in relation to global initiatives to construct financial security as a pressing international concern.

The following subparts elaborate on these claims. The first summarises evidence from early in the 21st century of the success of Brazil's ambitions to wield soft power. The second subpart turns to the developing international order on the criminalisation of financial flows that stem from illegal sources or are deployed to nefarious ends and considers how norms and standards adapted from this international order related to aspects of bingo regulation in Brazil, especially its reversion to illegality.

A. LOOKING OUT: THE QUEST FOR 'SOFT' POWER AND INFLUENCE

⁹⁶ This capacity might be considered, drawing on Foucault, a more "governmental" form of sovereignty. Marieke de Goede, analyses the exercise of this type of sovereignty in relation to financial flows in *Speculative Security: The politics of pursuing terrorist monies* (U of Minnesota Press: 2012).

Brazil's longstanding desire for international recognition as a significant actor in world affairs is well-documented.⁹⁷ According to Soares de Lima and Hirst, for example, "Brazil's major foreign policy aspiration has been to achieve international recognition in accordance with its belief that it should assume its 'natural' role as a 'big country' in world affairs."⁹⁸ As these authors—and others—observe, this aspiration to wield soft power, at least through "a middle ground international role,"⁹⁹ is in part a consequence of its size and resources. Brazil is a big country in terms of territory, population, and economy.¹⁰⁰ It has more international borders than all other countries apart from Russia and China and one of the world's longest coastlines. It is the state with the largest territory in the Southern hemisphere and is custodian of much of the world's biodiversity.¹⁰¹

Brazil has sought to realise its aspirations to soft power through active engagement with high profile political institutions and international events. It is a founding member of the UN, an energetic campaigner for a permanent seat on the UN Security Council to which it has been elected 10 times (second only to Japan); and since 1955, by well-established tradition, Brazil speaks first at the general debate of the UN General Assembly.¹⁰² Brazil founded the World Social Forum and has hosted more of its meetings than any other country.¹⁰³ Over time, the country has reached a stage where it is often included in clubs and decision-making fora for significant states but it has not had a lot of success in securing leadership positions in organisations created and dominated by rich and historically-influential states.

An important boost to Brazil's leadership ambitions occurred in 2001 when a paper about global economic developments included the country in a group of four "emerging market" economies that were likely to be key agents of global growth in the 21st century. Forecasting that the real GDP growth of Brazil, Russia, India, and China would exceed that of the G7 in 2001 and 2002, this paper heralded the arrival of the construct of the "BRICs countries" in international political economy discourse.¹⁰⁴ Noting how little commonality there is among the

⁹⁷ See Trinkunas, *supra* note 9, and sources cited therein.

⁹⁸ Mariana R. Soares de Lima & Mônica Hirst, "Brazil as an intermediate state and regional power: action, choice and responsibilities" (2006) 82:1 *International Affairs* at 21.

⁹⁹ *Ibid.*

¹⁰⁰ Brazil is the world's fifth largest country by territory (larger than continental US), containing almost half (47 per cent) of the South American Continent; and the 6th largest by population. At its most recent peak, Brazil's GDP was ranked 5th (or 6th) in the world. Even in 2016, while still in the throes of a deep economic crisis, Brazil's economy ranks 9th in terms of nominal GDP, and PPP, ahead of Canada, Australia, Russia, Mexico and other rich or large countries; The World Bank, "World Development Indicators, 2016" online: <data.worldbank.org/data-catalog/GDP-ranking-table>.

¹⁰¹ Brazil is one of 17 "megadiverse" countries, "which have been identified as the most biodiversity-rich countries of the world with a particular focus on endemic biodiversity." UN Environmental Protection and World Conservation Monitoring Centre, "A to Z Areas of Biodiversity Importance" online: <biodiversitya-z.org/content/megadiverse-countries>. For in-depth discussion, see Rudolph A. Mittermeier, P.R Gill and C.G. Mittermeier, *Megadiversity: Earth's Biologically Nations* (Cemex: Mexico City, Mexico, 1997).

¹⁰² See United Nations, *Frequently Asked Questions: General Debate*, n.d., online: <gadebate.un.org/en/faq>.

¹⁰³ Manisha Desai, "SWS 2015 Feminist Lecture: The Gendered Geographies of Struggle: The World Social Forum and Its Sometimes Overlapping Other Worlds" (2016) 30:6 *Gender & Society* 869–889.

¹⁰⁴ Jim O'Neill, "The world needs better economic BRICs" (2001) *Global Economic Paper Series*. O'Neill's prediction was reinforced 2 years later by a second paper from his colleagues in the Goldman Sachs Research Department, forecasting that the BRICs could become much more significant to the world economy than anyone had anticipated and that this result could materialise quite quickly: "If things go right, in less than 40 years, the BRICs economies together could be larger than the G6 in US dollar terms. By 2025 they could account for over half the size of the G6. Of the current G6, only the US and Japan may be among the six largest economies in US

BRIC countries, and how disinterested India and China were in the classification, Rohter describes the grouping—with some justification—as an artificial construct invented as a Goldman Sachs marketing exercise,¹⁰⁵ but it was subsequently accepted as meaningful.¹⁰⁶

Brazil's inclusion among the BRICs stemmed from changes in its economy that had occurred in the late 1980s after the restoration of democracy. Economic reforms to privatise state enterprises and curb Brazil's monstrous rates of hyper-inflation were initiated by Fernando Collor de Mello, the first elected president to take office in Brazil after the 1988 constitution.¹⁰⁷ These reforms were substantially overhauled and redeveloped as the "Plano Real," by Fernando Henrique Cardoso, first as finance minister to Itamar Franco, Collor de Mello's successor as President, and then carried on through Cardoso's own tenure as president. Taken together, the reform programs have resulted in the privatisation of more than 100 state enterprises, a dismantling of barriers to foreign investment, the end of hyper-inflation, and substantial diversification of Brazil's economy.¹⁰⁸ They enabled twin track development of industrial and agricultural sectors and facilitated exploitation of the country's extensive and varied resources including its young, economically active population as well as the land, water, and vast deposits of minerals for which Brazil is known. These economic policies, which largely continued through Lula's presidency, over fierce objections of many members and supporters of the Workers Party that he led, have brought considerable capital investment into the country since the early 1990s.¹⁰⁹ As an enormous economy that imports and exports capital, Brazil also has become subject to scrutiny of the risks to financial stability and global security that its capital flows potentially may create or exacerbate. Because of its size and significance to the global economy, Brazil's relationship to international regimes for managing the risks of financial flows was, by the start of the 21st century, increasingly considered important.¹¹⁰

dollar terms in 2050"; Dominic Wilson and Roopa Purushothaman, "Dreaming with BRICs: The path to 2050" (2003) 99 *Goldman Sachs* at 2.

¹⁰⁵ Rohter, *supra* note 9 at 226. For an interesting discussion of some differences in the configurations of the economies of BRICs states, see Andrea Goldstein, "The Political Economy of Global Business: The Case of the BRICs" (2013) 4:2 *Global Policy* 162-172; Joe Leahy, "Brazil: the first big 'Soft' power" *Financial Times* (22 February 2013).

¹⁰⁶ Gregory T. Chin, "The BRICS-led Development Bank: Purpose and Politics beyond the G20" (2014) 5:3 *Global Policy* 366-373; See also <https://www.ndb.int>; For a nuanced analysis that explores the differences in orientation and approach amongst the BRICs members in a global economic context see Kristen Hopewell, "Different paths to power: The rise of Brazil, India and China at the World Trade Organization" (2015) 22:2 *Review of International Political Economy* 311-338.

¹⁰⁷ Plano Brasil Novo combined liberalised trade and investment regulation with extensive privatisation as part of an inflation stabilization policy to decrease debt service costs. For an excellent discussion of Brazil's privatisation process from 1991-2001, one of the largest in the world but rarely studied, see Francisco Anuatti-Neto, Milton Barossi-Filho, Antonio Gledson de Carvalho and Roberto Macedo, "Os efeitos da privatização sobre o desempenho econômico e financeiro das empresas privatizadas" (2005) 59:2 *Revista Brasileira de Economia* 151-175. For discussions of Collor de Mello's market reforms set in the context of wider developments in Latin America, see Luigi Manzetti and Charles H. Blake, "Market reforms and corruption in Latin America: New means for old ways" (1996) 3 *Review of International Political Economy* 662-697.

¹⁰⁸ Anuatti-Neto, *supra* note 107.

¹⁰⁹ Maria de Lourdes Rollemberg Mollo and Alfredo Saad-Filho, "Neoliberal economic policies in Brazil (1994-2005): Cardoso, Lula and the need for a democratic alternative" (2006) 11:1 *New Political Economy* 99-123.

¹¹⁰ Maira Machado, "Similar in their differences: transnational legal processes addressing money laundering in Brazil and Argentina" (2012) 37:2 *Law & Social Inquiry* 330-66. Brazil joined the G20 in 1999/2000 and the FATF-GAFI in 1999/2000. For extensive discussion of the new international groupings and institutions that were developed at the turn of the 21st century to help manage the destabilizing risks of capital flows, see generally, Tony Porter, *Globalization and Finance*, (Polity: 2005).

B. LOOKING INWARDS: PERCEPTIONS OF BRAZIL AND GLOBAL CRIMINALITY RISK

Co-extensive with the opening up of its borders and the influx of foreign capital, Brazil became integrated into an emerging “anti-money laundering transnational order” governing flows of impugned capital between and within nation states. Launched in 1988 as part of a US-led “war on drugs,” this evolving collection of global and local norms, institutions, interests, and practices has developed into a core area of contemporary transnational regulation.¹¹¹ The first international instrument to include provisions to combat money laundering is Article 5 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.¹¹² While the scope of this instrument is limited to the proceeds of narcotics trafficking, the treaty introduced mandatory measures that have become the bedrock of international controls on illicit financial flows, including the confiscation of proceeds, enabling the tracing of impugned funds through records held by banks and other firms, and obligations to co-operate with other jurisdictions in confiscation and tracing processes.¹¹³ Equivalent international measures were extended to the financing of “terrorism” in 1999,¹¹⁴ to “organised crime” and “transnational” criminal offences in 2000,¹¹⁵ and to “corruption” in 2003.¹¹⁶

Several international organisations are involved in development and implementation of the international normative order that governs financial flows, the most significant of which is the Financial Action Task Force (FATF)—also known by its French name, Groupe d’action financière (GAFI)—an intergovernmental organisation that began life, essentially, as a club of wealthy, influential nations, at the 1989 G-7 Economic Summit in Paris.¹¹⁷ The FATF generates normative standards to combat money laundering (and financing of terrorism),

¹¹¹ Machado, *supra* note 110.

¹¹² E/CONF.82/14.

¹¹³ This article requires States parties, inter alia, to adopt measures to enable (1) confiscation of the proceeds of narcotics trafficking; and (2) competent authorities to identify, trace, and freeze or seize proceeds (3) to empower courts or other competent authorities to order seizure of bank, financial and commercial records be made available or be seized; (4) not to allow bank secrecy to be used as a defence to seizure of records and to cooperate with other jurisdictions as required. Brazil signed the convention on the day it opened for signature (20 December 1988), albeit with a reservation, and ratified it some 2.5 years later in July 1991. Confiscation/forfeiture of illegal drugs and trafficking paraphernalia and their proceeds was already an established remedy in Brazilian law under Decreto-Lei n° 1.455, of 7 April 1976 and Decreto-Lei n° 7560 of 19 December 1986.

¹¹⁴ “International Convention for the Suppression of the Financing of Terrorism” (1999) online: <treaties.un.org/doc/db/Terrorism/english-18-11.pdf> [perma.cc/49UU-W5WN].

¹¹⁵ “United Nations Convention against Transnational Organized Crime” (2000) online: <unodc.org/unodc/en/organized-crime/intro/UNTOC.html> [perma.cc/GJQ7-52DB].

¹¹⁶ “United Nations Convention against Corruption” (2003) online: <unodc.org/unodc/en/corruption/uncac.html> [perma.cc/79WS-DAM2]; Brazil is also a signatory to the OECD OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which it ratified in 2000, OECD, “Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” (2011) online: <oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf> [perma.cc/Y4B8-ZLGR]; and the Organization of American States, “Inter-American Convention against Corruption” online: <oas.org/en/sla/dil/inter_american_treaties_B-58_against_Corruption_signatories.asp> [perma.cc/DN76-3KED], which Brazil signed in 1996 and ratified in 2002.

¹¹⁷ It was founded with 16 members, which then increased to 28 after publication of the first edition of the money laundering standards. Brazil, Argentina and Mexico became members in 2000, taking the total membership to 31. The FATF currently comprises 35 member jurisdictions and 2 regional organisations (the EU and the drawn from major financial centres across the world. Other international and transnational bodies, including the EU and the UN, also monitor the development and institutionalization of the anti-money laundering international order within nation states.

produces authoritative knowledge about practices for masking the origins (*e.g.* money laundering) or destinations (*e.g.* terrorism financing or corruption) of impugned funds, and coordinates global responses to the threats posed by money laundering, and terrorism financing.¹¹⁸ Its compliance machinery relies on processes of peer review, mutual evaluation and naming/shaming and it has extended its reach while limiting its governance and decision-making membership by creating a distributed network of associated “FATF-style Regional Bodies” that conduct peer reviews and mutual evaluation of countries within their regions.¹¹⁹

Brazil was not invited to join the FATF until 1999/2000, some ten years after the organisation was founded and had published its standards. However, signs of the influence of the norms it oversees appear in Brazilian law well before it became a member. Within two years of being listed as “a [l]ocation in which action is needed to stem and prevent money laundering in order to make headway into the international money-laundering problem,”¹²⁰ Brazil had enacted a comprehensive anti-money laundering law, Lei No 9613/1998,¹²¹ that essentially met FATF standards on money laundering and extended the international measures to combat corruption. This law took effect in the same year as Lei Pelé, the legislation that shifted regulatory authority over bingo halls to the federal government after corruption scandals had damaged several of the state-based regulators of bingo halls. Notably, the bingo sector was almost immediately targeted as a site for supplementary rule-making by the Conselho de Controle de Atividades Financeiras (COAF), a financial intelligence unit established under the new money-laundering law to meet the FATF standards for the gathering and processing of financial information.¹²²

After a generally successful assessment of its domestic anti-money laundering regulation, Brazil joined the FATF in 2000.¹²³ This marker of integration into the global anti-money laundering order occurred in the same year as an important milestone in its history of

¹¹⁸ In 1990 the FATF first published its “40 Recommendations” global regulatory standards to combat money laundering, and added standards to combat the terrorism financing in 2001. It subsequently revised its standards in 1996, 2003/04, 2012 and Nov 2017. For insightful analysis of Brazil’s (and Argentina’s) experience with the FATF organization, see Machado, *supra* note 110.

¹¹⁹ Financial Action Task Force, “High-Level Principles for the relationship between the FATF and the FATF-style regional bodies” (2018) online: <fatf-gafi.org/media/fatf/documents/High-Level%20Principles%20and%20Objectives%20for%20FATF%20and%20FSRBs.pdf> [perma.cc/9QPQ-M8H5].

¹²⁰ US General Accounting Office, 1996, Money Laundering: A Framework for Understanding US Efforts Overseas GAO/GGD-96-105, (GAO: Washington, D.C) at 29. The list of medium risk countries is: Argentina, Brazil, Costa Rica, Ecuador, India, Japan, Liechtenstein, Luxembourg, the Netherlands Antilles, Pakistan, Paraguay, Russia, Spain, Turkey, Uruguay, and the United Arab Emirates. The 17 high risk countries are: Aruba, Canada, Cayman Islands, Colombia, Germany, Hong Kong, Italy, Mexico, the Netherlands, Nigeria, Panama, Singapore, Switzerland, Thailand, the U.K., the United States, and Venezuela.

¹²¹ Machado, *supra*, note 110 at 342. Lei No 9613/1998, extends the predicate offences for money laundering to include “terrorism” arms smuggling and trafficking, kidnapping, bribery and other acts “detrimental to government authorities” “acts harmful to the Brazilian financial system” and “acts performed by criminal organizations.” It applies the sanction of confiscation and provisional measures (including asset seizure and freezing during investigations) to the proceeds of such offences, creates a financial intelligence unit, the Conselho de Controle de Atividades Financeiras, (COAF), and provides for international cooperation and preventative measures including customer identification, record keeping and suspicious transaction reporting.

¹²² COAF Resolution No. 005, of July 2, 1999 and Resolution No. 009, of December 5, 2000 made specific provision for bingo halls in terms of records, identification and suspicious transaction reports.

¹²³ The only aspect in which it was judged less than fully compliant in 2000 concerned procedural protections for bank secrecy that were thought to impede information gathering about suspicious accounts. Brazil responded by reforming its law in 2001, LC 105/2001.

bingo regulation: enactment of the law (Lei Maguito) that started the process of closing Brazil's bingo market.¹²⁴ Over the ensuing years, as bingo entrepreneurs battled to keep their businesses through court actions and lobbying state governments, the federal government developed a sophisticated and proactive domestic architecture to combat money laundering and corruption, including the *Estratégia Nacional de Combate à Corrupção e à Lavagem de Dinheiro* (ENCCLA), the national strategy against money laundering and corruption,¹²⁵ specialised Federal Courts (2003), prosecutors' offices and federal police divisions,¹²⁶ and new prosecutorial instruments. These institutions were actively and successfully deployed against the bingo sector, for example, in operations to halt the corruption of courts where judges were bribed to extend operating licences. Brazil underwent another FATF review in 2004/2005. Noting that bingos were one of the more common methods of money laundering used in Brazil, this evaluation nonetheless found Brazil largely compliant with the anti-money laundering (but not Terrorism Financing) standards.¹²⁷

The assiduousness and urgency with which Brazil engaged with corruption control and anti-money laundering standards did not go unnoticed or unrewarded. In 2008, one year after the country had reverted to illegality in the bingo sector, Brazil assumed the rotating presidency of the FATF, the first South American country to play this role.

IV. CONCLUSION

This article has explored the regulation of commercial bingo in Brazil, looking at how the sector developed under legalization and the state's failure to develop a sustainable model of regulation. Because this failure is unusual in the contemporary world and does not fit the gambling proliferation thesis, the article has sought to identify distinctive aspects of Brazil's relationship with bingo and to understand the perceived benefits of its reversion to illegality. Brazil closed its bingo market not because of harm to players or to suppress play as such, but rather to contain the risk to the public interest that the bingo hall came to represent. This risk arose from the property relations that constituted the bingo hall, including the ownership and management of bingo businesses and equipment such as electronic gaming machines. Together with the business relationships that bingo halls fostered, these relations, over time, became channels for illegal funds and created threats to the integrity of public powers.

Through analysis of the places that bingo halls became, their place in Brazilian society and the place of Brazil in a globalizing world, the article has generated new insights into factors that may influence domestic policy choices about regulating gambling markets. The article does not claim conclusively to explain why Brazil reverted to illegality rather than continuing its search for a sustainable model of regulation—the associations the article has identified are as yet correlations rather than causes—but the analysis has identified two key issues for further research and development that may be of importance beyond the Brazilian case. First, it has confirmed the importance of investigating the property and investment relations that constitute gambling spaces and places. While much gambling research focuses primarily on consumption

¹²⁴ In 2000 Brazil also ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

¹²⁵ Money laundering was part of the ENCCLA's remit from 2004 and corruption was added in 2006.

¹²⁶ The specialised prosecutors are in the Justice Department's Department of Assets Recovery and International Legal Co-operation (DRCI); the specialised police division is the *Divisão de Repressão de Crimes Financeiros* (DFIN), the division for combating financial crimes.

¹²⁷ Brazil: Report on the Observance of Standards and Codes – FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism, June 2005 IMF Country Report No. 05/207.

risks, in the case of Brazil, the more significant risks for understanding the fate of its regulation concerned production of the bingo hall. Second, the analysis shows that consideration of the international context of gambling regulation may yield valuable insights into national regulatory decisions and processes, even in the case of bingo, a game that often is seen as quintessentially local. While this article's discussion of the particular significance and influence of the international context to developments in Brazil is suggestive rather than definitive, its intended contribution to the field is to stimulate debate and open up additional lines of inquiry.

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