

Chance Developments: Bingo Regulation in Brazil*

Desenvolvimento em Jogo: a Regulação do Bingo no Brasil

Maria Luiza Kurban Jobim**

Toni Williams***

Abstract: Throughout the neoliberalism era states have adopted policies that are often – and aptly — analysed and critiqued by reference to gambling metaphors. But the ways that states have turned to gambling industries to generate income, support community projects and promote economic and social development have received much less attention in critical political economy and policy discussion. This oversight is striking because many non-Islamic states have overturned (or greatly attenuated) historic prohibitions on the provision of games of chance over the past couple of decades, and some have sponsored gambling industries and products to foster community regeneration and sustainable development. Brazil, a country known for strong competitive traditions in sports and gaming, creative approaches to community economic development, and an urgent need to strengthen its public finances, is a notable exception to this liberalisation trend. This stance is interesting because Brazil liberalised its gambling regime in 1993 to allow non-state providers to operate bingo games. Drawing on the case of bingo regulation this paper critically analyses challenges that the Brazilian state encountered when it sought to create an economy of non-state provision of gambling products in aid of social development and the conflicts that have ensued as it has re-imposed repression of bingos. The paper reports on desk research and interviews conducted for the Bingo Project, an ESRC-funded comparative research project that critically examines bingo regulation in different parts of the world.

Keywords: Bingo regulation. Gambling regulation. Development. Brazil. Political economy. Policy discussions.

Resumo: Na era neoliberal, os países têm adotado políticas que são seguidamente analisadas e criticadas por meio de metáforas relacionadas à sorte e ao azar. Mas as formas segundo as quais os Estados têm regulado a indústria do jogo para aumentar a sua arrecadação, fomentar projetos comunitários e promover o crescimento econômico e social têm recebido muito pouca atenção na análise crítica da política econômica e dos debates políticos. Essa percepção é relevante, porque muitos Estados não islâmicos têm eliminado (ou diminuído drasticamente) a proibição histórica da exploração de jogos de azar ao longo das últimas décadas e alguns têm inclusive promovido a indústria do

* Paper presented at *Second Ibero-American Regional Socio-Economics Meeting* held in Porto Alegre, Rio Grande do Sul, in November, 2015. Paper funded by the ESRC bingo project. Authors would like to thank conference participants and Professor Iain Ramsay, University of Kent, for insightful comments and suggestions and our collaborators on the bingo project for inspiration. All remaining errors are ours.

** Researcher at the University of Kent. LLB in Law at Universidade Federal do Rio Grande do Sul (Hons) (UFRGS). LLM in International Commercial Law at University of Kent. E-mail: m.l.jobim@kent.ac.uk

*** Professor of Law at the University of Kent, BA (Hons) Oxford. PhD at University of Newcastle upon Tyne. E-mail: g.a.williams@kent.ac.uk.

jogo e os seus respectivos produtos para fomentar a regeneração de áreas degradadas e para promover o crescimento sustentável. O Brasil, um país conhecido por seu caráter esportivo competitivo, por suas perspectivas criativas em termos de participação comunitária no desenvolvimento social e econômico e por se encontrar em situação de notória dificuldade financeira, é uma exceção a essa tendência liberalizante. O fato é peculiar porque o Brasil liberou o jogo do bingo em 1993, permitindo que atores privados o explorassem em larga escala. Assim, a partir do enfoque da regulação do jogo do bingo, o presente estudo analisa os desafios que o Estado Brasileiro enfrentou ao tentar criar uma economia do jogo no setor privado na busca do desenvolvimento, bem como os conflitos gerados que ocasionaram o retorno à proibição. O presente trabalho baseia-se em pesquisa teórica e em entrevistas de campo realizadas ao longo do Projeto Bingo, uma pesquisa comparada financiada pelo Conselho de Pesquisa de Desenvolvimento Econômico e Social do Reino Unido (ERSC), que versa sobre a regulação do bingo em diferentes países.

Palavras-chave: Regulação do bingo. Regulação dos jogos de azar. Desenvolvimento. Brasil. Política econômica. Proposições legislativas.

JEL Classification: K; K2; K23; D18.

1 Introduction

Throughout the neoliberalism era states have adopted policies that are often – and aptly — analysed and critiqued by reference to gambling metaphors (STRANGE, 1989; MIDDLETON, 2013). But the ways that states have turned to gambling industries to generate income, support community projects and promote economic and social development have received much less attention in critical political economy and policy discussion. This oversight is striking because many non-Islamic states have overturned or at least greatly attenuated historic prohibitions on the marketing of games of chance over the past few decades, and some have sponsored gambling industries and products ostensibly to foster community regeneration and sustainable development.

Brazil, a country known for strong competitive traditions in sports and gaming is a notable exception to this liberalisation trend. Indeed, Brazil is one of only three G20 countries (the others are Saudi Arabia and Indonesia) that currently bans non-state providers of gambling products.¹ This stance is particularly intriguing because Brazil liberalised its gambling regime in 1993 to allow non-state providers to operate bingo games. Bingo halls were quickly established across the country; the game proved to be very popular amongst consumers; and the halls provided good local jobs and strong revenue streams to local, state, and federal governments. Despite these benefits, bingo was banned in 2004 in the wake of a corruption scandal that implicated the governing PT and has not yet been re-legalised. Drawing on a case study from a comparative project on bingo regulation in different parts of

1 The state provides lotteries.

the world,² this paper discusses a distinctive Brazilian approach towards gambling regulation that developed over the past 20 years as the state tried to use the game of bingo first to create and then to repress an economy of private, non-state, provision of gambling opportunities.

The next part of the paper provides a regulatory context for the bingo case study by providing a brief history and overview of gambling regulation in Brazil and the country's two main contemporary forms of mass participation games. Part III is an account of the measures the Brazilian government took to liberalise bingo and then to close down the legitimate market. Part IV discusses the arrested development of Brazil's bingo economy and considers reasons why its attempted liberalisation did not succeed.

1.1 A Brief Overview of Gambling Regulation in Brazil

Commercial bingo houses were very popular in Brazil during the 10 year period in which they were licensed. Even at its peak, however, participation in bingo was dwarfed by Brazil's two main mass participation gambling forms, the lotteries offered legally by the Union and by state governments, and the *jogo do bicho*, a popular lottery offered illicitly by private-sector informal businesses. To understand Brazil's regulatory response to bingo, it is therefore useful to situate its brief liberalisation period at the end of the 20th century in the context of the country's historical approaches to gambling practices.

Brazilian public authorities historically have responded selectively to gambling products and practices simultaneously suppressing some and enabling others. *Ad hoc* lotteries were authorised to fund public works such as the prison and other government buildings in Brazil's gold rush frontier town, Vila Rica (now Ouro Preto) and a theatre in Bahia in the late 18th and early 19th centuries and extended to support charitable causes from the early nineteenth century.³ In 1896, the federal government partnered with a private company to constitute the National Lottery Company (Companhia de Loterias Nacionais do Brasil). Under this partnership the ministry would approve the company's plans every month and authorise it to run lotteries (offering at least fifty prizes daily) across the entire country (CHAZKEL, 2011, p. 47).⁴ After that company closed down, the federal government adopted a more decentralised approach choosing instead to distribute lottery tickets through

2 For more information, see The Bingo Project (2016).

3 DEI 11/1817 (Decisão do Império) 04/10/1817, which is an order to apply the funds raised by the lottery to public works in Vila Rica. See also, CRT /1809 (Carta Régia) 01/27/1809 authorising a lottery to fund a theatre in Bahia; DIM /1821 (Decreto do Império) 05/23/1821 authorising the creation of lottery products by Santa Casa da Misericórdia, Seminários de São Joaquim e São José. Source for all of these is Brasil (1817). See also Godoy (2014).

4 See also *Impressões do Brazil no Seculo Vinte* (LLOYD, 1913, p. 610).

organisations that it selected by public tender (*concorrência pública*) and granted 5 year distribution terms (CAIXA, 2016). Since 1962 national lotteries have been managed by the Caixa Econômica Federal (Caixa), a public bank based in Brasília and accountable to the Finance ministry. Caixa's national lottery portfolio currently consists of 10 games that are heavily promoted and widely played and in 2014 the Caixa collected revenues of about R\$13.5 billion (BRASIL, 2014, p. 62). State governments across the country also offer a number of popular lottery games and, like the Caixa, they channel a substantial portion of their revenues to social purposes.⁵

At the opposite end of the regulatory spectrum from the state-owned and distributed lottery games are two private sector gambling products that grew rapidly during the early twentieth century, fell under the general prohibition on gambling games during the 1940s, and over the past 75 years have remained unlawful. These are the casino and Brazil's popular private lottery game, the *jogo do bicho*.

Gaming houses existed in Brazil during the 19th century and by the middle of the 1930s some of them had become casinos that were popular among the rich and famous within Brazil and internationally (CHAZKEL, 2011, p. 51, 277). These gambling sites were frequently paired with hotels that occupied grand and spectacular buildings in the major urban centres of Rio de Janeiro and São Paulo and in smaller historic cities that then became significant leisure destinations such as Lambari and Poços de Caldas in Minas Gerais and Petrópolis in the state of Rio de Janeiro. In addition to the gambling games, some casinos were multifaceted entertainment venues, offering a setting for musical and other artistic performers, boosting the country's tourism industry and fostering an incipient culture of show business.

Casinos, like the lottery, operated within the formal economy and during the 1930s they generated a reliable stream of public sector income through licenses and taxes as well as substantial private profits. In 1941, however, the Union government passed a new Criminal Contraventions Act (CCA) in which it consolidated the piecemeal bans on specific games that it had formerly created under the 1890 Penal Code into a default rule prohibiting all forms of gambling that were not specifically exempted (MAHON, 2011).⁶ Even though casinos fell squarely within the scope of the prohibition, rather than an exemption, some establishments remained open, relying on licenses and concessions secured before the 1941 legislation. To remove uncertainties caused by the co-existence of the general prohibitions under the CCA with the pre-existing specific authorisations that casinos held, the Union government in 1946 enacted a law declaring that casinos are covered by the CCA

5 For instance, see Governo do Rio de Janeiro (2016).

6 The notable exceptions are licensed lotteries, poker, which is defined as a game of skill, and on-track betting on horse-races.

1941 and annulling all licenses, authorisations and concessions given by local and federal governments (Decreto-Lei nº 9.215/46).

Enjoyed by a very different segment of Brazil's highly stratified society, the *jogo do bicho* is a privately-run lottery game that was first capitalised and commercialised in Rio de Janeiro during the 1890s in association with the marketing of the City's first zoo.⁷ Within a very short time opportunities to play the game had been detached from its original location of the zoo and become immensely popular. New points of sale for the lottery tickets were created across the city and an extensive distribution system, (which provided new opportunities for work as well as play) was established initially in the city of Rio and subsequently throughout urban Brazil.

The popularity of the *jogo do bicho* stemmed in part from its accessibility. As a game distributed through fleeting encounters on street corners and in which bets were based on animal images, the *jogo do bicho* did not require its players to secure entry to a grand building, to join a club, to spend a lot of money, to have influential connections or to be literate. Growth generated network-type effects on the culture of urban sociality as participation in the game and anticipation and discussion of the daily draw became a point of contact and shared experience in a rapidly growing and changing city. The game's simplicity also made it readily adaptable to the magical thinking and totemic practices associated with luck that often intensify enjoyment of games of chance, and greater pleasure from play in turn contributed to more growth (CHAZKEL, 2011, p. 35-37).

In contrast to the casino palaces, the legal status of the *jogo do bicho*, as an unlicensed game of chance, was contested from the earliest days of its distribution outside the zoo. Chazkel's illuminating study painstakingly traces the processes, (which she powerfully conceptualizes as attempted enclosure of urban public space), whereby the state and the city sought to institute criminalisation albeit with little apparent effect on participation or enjoyment of the game (CHAZKEL, 2011 p. 97). She found evidence "at least as early as 1895" of police arrests of *jogo do bicho* distributors for violations of the prohibitions against unlicensed games of chance found in Brazil's 1890 Penal Code (art. 367); and her study references an active period of legislative increases in the maximum penalties for gambling convictions at the turn of the century (CHAZKEL, 2011, p. 87-88).

By contrast, Chazkel finds evidence of relatively few convictions and punishments largely because the police had great difficulty adducing reliable and compelling evidence of gambling transactions that have no fixed premises and occur during ephemeral social interactions (CHAZKEL, 2011, p. 97-98). Unlike the ca-

7 The game developed when the zoo's owner Baron de Drummond printed images of the animals on the entry tickets and held a daily draw to select the winning animal image. All holders of tickets printed with an image of the selected animal would then share a substantial cash prize. According to Chazkel the prize was double the daily wage of a shoemaker (CHAZKEL, 2011, p. 34).

sino, the *jogo do bicho* has never benefited from legislative authorisation by the federal government. As an unlicensed lottery, the game falls within the 1941 Criminal Contravention Act's general prohibition against *jogos de azar*, and periodically it is subjected to enforcement crackdowns. (ROTHER, 2007) Judging from the game's continued growth and ubiquity, however, the CCA has been no more effective at restricting it than was the preceding penal code of the 1890s.

1.2 The Rise and Fall of Bingo Liberalisation in Brazil

Bingo was taken out of the CCA's general prohibition against "*jogos de azar*" in 1993 and given a limited exemption from illegality. Lei Zico (Lei nº 8.672/93) (BRASIL, 1993, online), named after the football player and subsequent coach of the Brazilian national team, authorised sports entities to run commercial bingo operations that would be licensed, regulated and supervised by state authorities, either the State Treasuries or in the 14 states that had established their own lotteries, the lottery regulator (BRASIL, 2006, p. 264). A scant few months after enactment of the enabling legislation for the commercial provision of bingo games, the law was extended to allow higher intensity play in bingo houses through electronic games and on slot machines.

The legislative goal of Lei Zico was to raise funds to foster the development of sporting activities, particularly football clubs, without diverting public money from other social purposes. Two aspects of how the law was realized in practice are noteworthy. First, bingo was then exclusively a venue-based form of gambling, which meant that the location and ownership of the businesses was important. It was initially expected, or at least hoped, that the new bingo businesses would be created by Brazil's large professional football clubs. In testimony given to the CPI dos Bingos, Olavo Sales da Silveira, president of the Brazilian Association of Bingo (Abrabin) stated: "the interest in settling Bingo Halls linked to big football teams was obvious. Who would not want a bingo in Sao Paulo linked to Corinthians?" (BRASIL, 2006, p. 264-269). But football clubs were unable to meet the regulatory conditions to establish licensed gambling services. Bingo establishments were often instead developed as extensions of *jogo do bicho* franchises (BRASIL, 2006, p. 134), which by the end of the 20th century had grown into enormous and highly lucrative businesses. With annual illicit betting revenues amounting to billions of reais,⁸ *jogo do bicho* bankers (*bicheiros*) needed to move large sums of money into the legitimate economy. Bingo houses created a channel from *jogo do bicho* receipts (and any other illicit enterprises in which *bicheiros* were involved) to the formal

8 The Instituto Jogo Legal estimates for example that about R\$ 12 billion was bet on the *jogo do bicho* in 2014, about the same as the total bets made through the legal lotteries (THE BINGO PROJECT, 2016).

economy, opening up new ways to launder proceeds that the Brazilian authorities subsequently found threatening and difficult to control.⁹

Second, the placing of the licensing and supervisory powers with the states developed in some of them a capacity to govern bingo and an interest in regulating games of chance – and tapping the income streams – that they were subsequently reluctant to relinquish. This regulatory capacity was later a site of contestation and conflict over bingo regulation when the Union tried to close the bingo game market. As an example of the value that states attached to their regulatory role, one knowledgeable observer comments that:

Lei Zico had a great advantage [...]: it assured states' autonomy. We are a federation, a federal country [...] By understanding that the Federal Constitution, with states' autonomy, did not give exclusive power to the Union in terms of lottery legislation, states could legislate about the subject concomitantly [...] The Rio de Janeiro provisions was enacted with this in mind. We had at that time LOTERJ, with a significant revenue from bingo. High taxes were charged to Bingo Halls. Really high. So that was a really good source of income at that time. Here, all of the lottery profit was all applied to social ends, we constructed a housing complex for the low income population in Rio, among other social initiatives. (Anonymised Interview, Aug. 2016).¹⁰

Not all states were able to create a suitable regulatory infrastructure, however, so that bingo regulation became more complicated in 1998, when the Union government passed Lei Pelé (Lei n° 9.615/98) (BRASIL, 1998, online) under which it assumed the licensing and regulatory powers for itself (arts. 59-81). Decree n° 2.574/98, also enacted in 1998, then allocated responsibility for regulating, authorising and supervising bingo establishments to the Instituto Nacional do Desenvolvimento do Desporto (Indesp). Indesp was a small institution that never developed the capacity to regulate the bingo economy effectively. It quickly adopted a practice of contracting with state regulators, where these had been established, to continue their local supervisory arrangements (BRASIL, 2006, p. 264). Ultimately state regulation of bingo persisted in about half Brazil's 27 states, with the effect that conditions were ripe for regulatory practices to be tailored to local markets and for the further development of close local relationships between industry and regulator. Predictably enough these conditions bred corruption scandals which erupted with some regularity during the bingo legalisation era.

9 This aspect of the Brazilian bingo business is analogous to Jerome Skolnick's finding that "[...] casino gambling offers an extraordinarily valuable service to a society with immeasurable but evidently institutionalised sources of dirty money: the legitimization of unlawful funds through functional unaccountability." (SKOLNICK, 1978, p. 47).

10 Male, gambling expert analyst and lawyer, interview undertaken in Rio de Janeiro, in 2015.

In 2000, just two years after Lei Pelé, the federal government reverted to a more restrictive approach and closed down entry to the bingo market. Lei Maguito (Lei nº 9.981/2000) (BRASIL, 2000, online) prohibited the granting of any new licenses to operate bingo houses but exempted existing activities developed by authorized Bingo Houses until license expiry (art. 2º, Lei nº 9.981/2000) (BRASIL, 2000, online). This legislation also transferred responsibility for supervision and surveillance from Indesp to the Caixa, which ran the successful federal lotteries and then a few months later, the Union transferred the remaining bingo licensing and authorisation powers to the Caixa.¹¹ At the end of 2002, all federal authorisations given to bingo establishments expired (BRASIL, 2006, p. 27).

But this was by no means the end of Brazil's commercial bingo market because states that had developed a regulatory infrastructure had also enacted their own enabling legislation to stimulate bingo and raise revenues.¹² Regulators in those states continued to authorise bingo houses after the federal government had restored prohibition, creating significant divergence across the country about the status of the game.

State courts also played a crucial role in bingo regulation after the Union had passed the Lei Maguito to close down the bingo market because judges were asked to issue orders (“*liminares*”/injunctions) that would effectively extend an expired licence. Unsurprisingly, there was little consistency in the exercise of this power so that it was difficult for players, stakeholders and authorities to understand what was legally and constitutionally accepted. Moreover, because of the lucrative nature of the businesses affected – and the substantial losses occasioned by closure – there were suspicions and allegations that courts were being corrupted to secure license extensions (ALVIM, 2011; AULER, 2012). According to one informant, for example:

What was happening was that, in the absence of a legal determination of what was authorised and legal and what was not, there was a gap. There were judges who allowed Bingo Halls to operate normally. The ones who got these decisions could be opened. And there was speculation that pointed out that these injunctions would cost R\$ 1 million, 2 millions, 5 millions. This was like a lottery, the ones who got these decisions felt like they won the lottery. When these suspicious about “judicial decisions’ for sale” were strengthened by investigations (known as Operation Hurricane), the Supreme Court had to act in order to bring judicial uniformity. (Anonymised interview, Dec. 2015).¹³

11 Medida Provisória (MP) nº 2.049/2000 (republished by the MP nº 2.216-37/2001) further modified art. 59 of Lei Pelé by eliminating the Indesp and transferring its powers to the Caixa. Decree nº 3.659/00 regulated the authorisation and surveillance of bingos, according to the legislative reforms, and fully revoked the Decree nº 2.574/98.

12 See for instance, Lei Estadual nº 12.343/03, from Pernambuco, Decreto Estadual nº 25.729/99, from Rio de Janeiro, Lei Estadual nº 7.416/03, from Paraíba and Decretos Estaduais nº 11.544/04, 11.349/03, 11.133/03, 11.260/03, 10.468/01, 10.230/01 from Mato Grosso do Sul, among others.

13 Male, politician, interview undertaken in Porto Alegre, in 2015.

In 2004, the Brazilian media exposed a recording in which Waldomiro Diniz, then a senior advisor to the PT government on gambling regulation was shown extorting a campaign contribution in support of the PT from Carlinhos Cahoeira, a significant figure in the world of the *jogo do bicho*. At the time of the recording the advisor had not been working for the federal PT but was responsible for Rio de Janeiro's state run lottery. The expose thus damaged confidence in the integrity of state-based gambling regulation as well as in the probity of the governing PT party. Nonetheless the courts' license review practices were well established and they continued to issue discretionary injunctions.

In a bid to standardise judicial practice, the Supreme Court in 2007 issued a binding precedent on the division of regulatory powers (Sumula Vinculante n° 2). Ruling in favour of the Union's exclusive jurisdiction over the regulation of gambling, the court held that any state or district law or normative act relating to draws or sweepstake systems, including bingo and lotteries, is unconstitutional".¹⁴ With this decision the Court reinforced the Union's recriminalisation of bingo with concomitant losses of businesses, jobs and opportunities for pleasurable leisure experiences. Bingo houses have not disappeared from Brazilian cities and liberalisation is once again on the political agenda but for now the reversion to control through criminalisation has driven the game underground.

2 Implications of the Brazilian Experience on Bingo Regulation

Peter Adams suggests that despite the evidence of diversity in the evolution of gambling regulatory frameworks in different countries, it is possible to discern a general pattern consisting of four key phases: emergence, regulation, liberalisation and normalisation (ADAMS, 2008, p. 25). He finds that governments are active players in gambling expansion, taking on a variety of roles that drive countries from regulation to liberalisation, including law maker and law enforcer during the regulatory phase, and gambling provider, promoter and revenue collector during liberalisation. Once liberalisation is underway the process of gambling proliferation gathers momentum that "is typically too strong to reverse" and governments then move into the roles they play during the normalisation phase, namely policymaker, harm alleviator and honest broker (ADAMS, 2008, p. 29-30).

The Brazilian government's 1993 decision to open up the bingo market can be explained by the incentives and influences that Adams associates with government engagement in gambling liberalization, including the prospect of generating a major stream of government revenue outside direct taxation and at relatively little cost, an effective industry lobby and examples of liberalised regulation in other

14 Free translation. In the original "É inconstitucional a lei ou ato normativo Estadual ou Distrital que disponha sobre sistemas de consórcios e sorteios, inclusive bingos e loterias."

countries. Once the game was licensed it quickly became embedded in Brazilian society in just the ways that Adams predicts. Providers grew and plugged their businesses into the strategic economic networks on which an integrated capitalist economy depends; workers and their families structured their lives around the income, and players committed to playing bingo, substituting the friendships, affinity groups and experiences of the bingo hall for other leisure activities (ADAMS, 2008, p. 29). But contrary to Adams's prediction – and the processes observed in other countries – gambling development stalled in Brazil and the government did reverse its decision to open up the bingo market. Why did Brazil change course? Why did bingo regulation not become fully normalised in this jurisdiction?

While it is tempting to speculate about why bingo regulation never became fully normalised in Brazil, this important questions requires more data and more extensive analysis than we are able to present here. The remainder of this paper considers instead some implications of the closure for social, political, economic and regulatory interests that were constituted or affected by the era or lawful bingo.

2.1 Political Interests in Controlling Organised Crime and Money Laundering

One important aspect of lawful gambling businesses is the facility that they create to feed illegally obtained cash into the legitimate economy. This facility in turn makes the gambling a very attractive sideline or subsidiary investment for those engaged in crimes that generate significant cash revenues. In March 2004, in the wake of a major corruption scandal, the Brazilian government created a Parliamentary Enquiry Commission (CPI) to “[...] investigate the usage of bingo houses as an instrument to commit crimes of money laundering and of concealment of goods, rights and values, and, additionally, to verify the relation existent between bingo establishments and of public concessions with organized crime.” (Requerimento nº 254/2004, Senate) (BRASIL, 2004). This public inquiry sat for three years before publishing a substantial (1400 page) report that extensively analyses Brazil's entire gambling economy, albeit with a focus on bingo. Assertions reproduced on the Report's opening pages as part of the government's justification for establishing the Commission illustrate the influential view that combating organised crime in Brazil requires the elimination of gambling venues such as *casas de bingo*, as we can see from the considerations below:

- Organised crime and gambling are “conjoined twins”. There is strong evidence worldwide that casinos and similar businesses mask the real, illegal business that actually control them.
- Since the beginning of their activities in 1993, the bingo halls have rendered a disservice to the nation... [U]nder the false cloak of contributing to the financing of sports clubs, some of these entities have been used to launder money coming from illegal activities.
- Bingo has as stakeholders (sometimes hidden) people notably related to crimes and misdemeanours, who sometimes represent the interests of an international organised mafia.
- Our firm belief that bingos must be extinguished is reflected in the ... creat[ion] of the Parliamentary Front against the legalization of the exploitation of gambling in Brazil. (BRASIL, 2006, p. 7-8, our translation).

The inquiry found evidence of foreign organized crime groups, as well as home grown *bicheiros*, using bingo facilities to launder money and facilitate criminal conspiracies (BRASIL, 2006, p. 12, 134, 122-149) but this did not resolve the question of the appropriate regulatory response. Concerns about the use of gambling facilities and transactions for money laundering and links between organized crime and gambling markets are of course ubiquitous and not unique to Brazil. They are referenced in international norm production projects such as the Financial Action Task Force standards and in most jurisdictions form part of the rationale for legalizing gambling so that venues and transactions become more visible to regulatory enforcers (MIERS, 2004; SKOLNICK, 1978). Ultimately this was the position taken by the CPI dos Bingos, which favoured regulation over continued prohibition and made several legislative proposals (BRASIL, 2006, p. 1025-1036). Since the CPI reported in 2007 the government has frequently debated Bills proposing the re-legalisation of bingos and at the time of writing a legislative committee is considering broader liberalization of gambling activities. But no reform proposals have yet been enacted.

The findings of the CPI dos bingos and the Brazil case more generally stimulate reflection on the role of gambling enabling regulation in preventing or controlling money laundering. It is clear from the CPI report that large amounts of money were washed through Brazil’s lawful bingo economy, and in that sense the regulation seems not to have had a preventative effect. But the absence of legalisation offers no greater protection against money laundering activity. Thus the *jogo do bicho* that has never been legalized is “[...] a quintessentially Brazilian way of laundering money [...] [that] contributes greatly to the problem of impunity in this country” (ROTHER, 2007, online).¹⁵ In sum, although there is an important link between

15 Judge Denise Frossard, who in 1993 imposed unexpectedly substantial prison sentences on 14 *bicheiros*. (ROTHER, 2007).

legalization and anti-money laundering at the level of beliefs and policy discourse, Brazilian experience suggests that interests in stopping money laundering may not account for the stalling of the legalized commercial bingo market or provide sufficient justification to stimulate its revival. What are the implications of closure of a liberalized gambling market for other interests?

2.2 Interests of Bingo Workers, Players and other Stakeholders

Bingo is a labour-intensive game. A successful commercial bingo venue requires staff to open and close, manage, secure and maintain the premises and equipment, encourage social interaction between players, deliver and monitor the game, manage paperwork, count and check receipts.¹⁶ Many Brazilian bingos were enormous spaces that also housed ancillary and support services such as restaurants, cafes, bars, exhibition spaces as well as opportunities to play (BRASIL, 2006, p. 1221). Closure of the bingo market thus adversely affected a large number of workers. Immediately after the Diniz corruption scandal noted above, some 30,000 bingo workers were reported to have protested in support of preserving their jobs and their labour union estimated that job losses would exceed 100,000 (BRAZIL BINGO..., 2004). In view of the growth achieved within the very short time that the lawful bingo market was open, one commentator estimates that a legalized industry could employ as many as 400.000 people (BRASIL, 2015).

Another group directly harmed by the closure of the bingo market are the players.¹⁷ In addition to creating an environment in which people enjoy the thrills, excitement and sense of hope that recreational gambling offers, bingo halls are spaces of camaraderie and social interaction (DOWS, 2008; SZTANJBERG, 2013). Moreover, studies suggest that women, who are sometimes effectively excluded from using some public spaces because of safety concerns, are more likely to use bingo halls and to experience the sense of wellbeing that bingo players often enjoy (FORREST, 2013, p. 14-15). In the words of Kate Bedford: “bingo has been traditionally linked to a mass and gendered oriented entertainment environment” (BEDFORD, 2011, p. 371). Its appeal for many women relates to aspects such as the environment of female sociality, community, companionship and fun; the opportunity to escape from domestic routines (BEDFORD, 2011, p. 376) and particularly in older age, a way to keep the mind occupied, exercise memory and experience excitement.

16 For a rich account of the labour required by charitable bingos in Canada, which operate on a much smaller scale than the Brazilian commercial bingo, see Bedford (2015).

17 We recognise that a small minority of players will experience addiction and compulsion even in relation to a low-intensity game such as paper bingo. A liberalised bingo market obviously may not be to the benefit of such players.

Consumers' and workers' interests were harmed by the closure of Brazil's lawful bingo market. Workers, who had lost their livelihoods, clearly suffered more economic and material harm than consumers. They were able to express their interests in public fora through demonstrations and other protest activities, but because the scandals that triggered closure hurt the party that claimed to represent workers, actual bingo workers were left with no channels to influence political debates. Consumers, who likely were mostly female, lost safe, social spaces of relaxation, recreation and entertainment. As is typical of so many consumer problems, individual losses were on a relatively small-scale materially, although they may have been much more significant in terms of emotions and affect. Moreover, consumer losses were diffused amongst a large group of players, which exacerbates the difficulty of representing consumer interests within the political debates.

2.3 Interests of the Bingo Supply Industry

The interests of the suppliers of bingo venues and facilities in the opening and subsequent closure of Brazil's bingo economy are somewhat ambiguous. Brazilian entrepreneurs who were not implicated in the *jogo do bicho* likely would encounter similar issues as in the opening up of new markets in other industries. For the Brazilian *bicheiro* legalisation created new ways to engage with the formal economy. Some of the benefits of doing so include the laundering of money through the payment of wages, taxes and the upkeep of premises; the laundering of reputation through the successful management of a lawful gambling business and entry into business networks; and access to legal institutions and the resources of law to manage disputes and conflicts, which are likely to be cheaper and more efficient than the extra-legal methods that criminal organisations usually have to rely on.

But legality also incurred costs for the business owners, from the payment of corporate and employer taxes to the costs of renting, lighting, maintaining, furnishing and air-conditioning bingo premises. Moreover, regulated activities may be subjected to far more routine official scrutiny than are illicit businesses, especially those illicit businesses that have well-established working relationships with law enforcement authorities lubricated by petty corrupt payments, which is allegedly the case for most *jogo do bicho* enterprises. Finally, legalization makes domestic markets visible to foreign investors, which can intensify competition and disrupt established business routines and market practices.

It is difficult to assess the likely effects of these different costs and benefits without careful empirical study of the supply side of the markets for lawful and unlawful bingo. However, it seems likely that different types of suppliers would have distinct interests in liberalization or closure of the bingo market. For example, a local *bicheiro*, may be less concerned about closure and more willing to incur what

is perceived to be a minimal risk of adding a clandestine, illicit bingo to its portfolio, than would be a global gambling corporation that seeks to invest in the Brazilian leisure and entertainment market. Conversely liberalization might attract the attention of a global corporation in search of new markets and at the same time threaten the *bicheiro* accustomed to monopolizing local markets for gambling opportunities.

2.4 Regulator Interests

Regulation theories usually assume that regulators identify with the success of the industries they govern. Sometimes, as in the case of regulatory capture theory, regulatory agencies are considered fail because they over-identify with the interests of industry actors and lose regulatory independence. The interests of Brazil's bingo market regulators illustrate the potential for a different kind of regulatory partiality, one that is better understood in terms of industry rivalry or competition.

As noted above for most of the liberalization period, the market for legal bingo was regulated either by the Caixa, which runs the federal lotteries or by a state lottery provider. Delegation of regulatory powers to the Caixa and state lotteries could be justified in terms of their expertise with mass-market gambling products. However, it also created a situation in which the regulators were tasked with managing a market for a type of gambling service that directly competed with their own products. Although the annual revenues of the Caixa are now about 4 times greater than the estimated annual revenues of a legal bingo economy (then approximately R\$ 3.1 billion), the sums collected by legal bingo potentially represents a foregone opportunity for the Caixa to expand the market for its own lottery products. It seems questionable therefore whether the Caixa would have considered that its best interests lay with the development and expansion of the legal bingo market.

3 Final Considerations

The story of bingo regulation in Brazil illustrates the importance of understanding the regulatory setting of gambling policy, as well as the social and economic context and political imperatives.¹⁸ Considered in the abstract conditions seem to favour liberalisation. Brazil has a longstanding tradition of mass participation in lotteries which suggests that consumers – and the state - are comfortable with small stakes low-intensity gambling activity and that religious or ethical considerations are unlikely to get in the way of expansion. There are plenty of apparently successful liberalisation examples in other countries for the Brazilian state to follow. And

18 For a fuller discussion, see the Final Report of The Bingo Project. Available at: <https://www.kent.ac.uk/thebingoproject/resources/Bingo_Project_report_final.pdf>https://www.kent.ac.uk/thebingoproject/resources/Bingo_Project_report_final.pdf>. Access on: 23 Jan. 17

there are plausible estimates of substantial revenues, perhaps as much as R\$19 billion annually, that move through a thriving economy of illegal betting, and which, if legalised, could add about R\$ 9 billion to the government's tax revenues even if the demand for gambling were not to increase at all.¹⁹

Legalisation also could potentially enhance the welfare of consumers, especially if it encourages the development of venue-based games that bring people together to enjoy companionship and sociality as well as gambling. And legalisation would place a large number of jobs in the formal economy. Although some of these might be substitutes for positions currently held in the illicit gambling businesses, the huge number of jobs lost when the legal bingo market closed suggests that liberalisation has significant job creation potential.

Despite these potential benefits, Brazil hesitates at the brink, not quite willing to commit to the liberalisation and subsequent normalisation processes that so many other countries have recently undergone. While it is always possible that another study will provide a fresh and convincing angle or interpretation that will convince decision-makers it is perhaps unlikely that the impediment is the lack of persuasive arguments. Based on our analysis of the liberalisation and subsequent closure of lawful bingo markets in Brazil this paper suggests that advocates of gambling liberalisation should look to the interests that structure the regulatory setting to build a case for change.

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19 Maghno José, the President of the Legal Gambling Institution (Instituto Jogo Legal – IJL), believes that while the legal bets are estimated to be around R\$ 12,1 billion the illegal ones reach the amount of R\$ 18,9 billion. Together legal and illegal activities move approximately R\$ 31 billion and if the legalization idea is approved by the National Congress the state could pull in R\$ 15 billion in taxes (THE BINGO PROJECT, 2016).

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Recebido em: 26/12/2016.

Aceito em: 11/01/2017.